
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 298

Students Awards (No. 2) Regulations (Northern Ireland) 1996

Part I

General

Citation and commencement

1. These Regulations may be cited as the Students Awards (No. 2) Regulations (Northern Ireland) 1996 and shall come into operation on 1st September 1996.

Revocation

2. The Students Awards Regulations (Northern Ireland) 1996(1) 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;

“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(2);

“course comparable to a first degree course” means—

(a) a course of at least 3 academic years' duration provided by a university or universities for a certificate, diploma or other academic award;

(b) an educational facility designated by the Department under Article 50(1);

“the Diploma of Higher Education” means—

(a) a course provided by a publicly funded institution for the Diploma of Higher Education; or

(b) a course provided by a publicly funded institution for the Diploma of Higher Education or a first degree as the student may elect after the commencement of the course;

(c) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Diploma of Higher Education which is for

(1) S.R. 1996 No. 190

(2) O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968 (II) p. 475)

the time being designated for the purposes of this provision by the Secretary of State for Education;

“course for the Higher Diploma” means a course provided by a publicly funded 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⁽³⁾ 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 a publicly funded institution or where a private institution is an eligible institution as defined by Section 4(2) of the Education Act 1994⁽⁴⁾ by a public institution in conjunction with such a private institution, or by such a private 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 Academic 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⁽⁵⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁶⁾;

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway, and the Principality of Liechtenstein; an area which was previously not part of the European Community or the European Economic Area but at any time before or after these Regulations come into operation has become part of one or other or both of those areas shall be considered to have always been part of the area of the European Economic Area;

“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

(3) S.I.1989/2406 (N.I. 20) as amended by S.I. 1993/2810 (N.I. 12) Art. 50(1) and Schedule 4 Part II

(4) 1994 c. 30

(5) Cmnd 2073

(6) Cmnd 2183

Economic Area 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 a publicly funded 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 a publicly funded institution in conjunction with an overseas institution for a first degree;
- (d) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for a first degree or for the degree of Bachelor of Medicine or an equivalent degree, which is for the time being designated for the purposes of this provision by the Secretary of State for Education;

“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, Iceland, Japan, Norway, Sweden, Switzerland and Taiwan;

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

“high-cost country” means Australia, Canada, Greece, Indonesia, the Republic of Ireland, Italy, New Zealand, 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 3 years; or
- (c) has been married for at least 2 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 an educational institution in the United Kingdom providing further or higher education or both, or providing a course which qualifies for funding under Part I of the Education Act 1994 or a university or relevant institution of higher education in the Republic of Ireland providing a full-time course comparable to one listed in paragraphs 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 2 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 established pursuant to section 8 of the National Health Service Act 1977(7) or a Special Health Authority established pursuant to section 11 of that Act(8);
 - (viii) unpaid service with a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(9); 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(10) or with a Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(11);
- (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;

“private institution” means an institution or institutions which are not maintained or assisted by recurrent grants out of public funds;

(7) 1977 c. 49; section 8 was substituted by the Health Authorities Act 1995 (c. 17), section 1(1)

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

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

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

(11) S.I. 1991/194 (N.I. 1)

“publicly funded institution” means an institution or institutions which are maintained or assisted by recurrent grants out of public funds;

“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(12) as extended by the Protocol thereto which entered into force on 4th October 1967(13) 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;

“relevant institution of higher education in the Republic of Ireland” means an institution listed in Part II of Schedule 5;

“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 respect any student, a year of a sandwich course which includes both attendance of 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(14)) 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 monies provided by Parliament;

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

(12) Cmnd. 9171

(13) 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)

(14) S.R. 1994 No. 298

“the Tax Acts” has the same meaning as in Schedule 1 to the Interpretation Act 1978⁽¹⁵⁾;
“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 12 months beginning on 1st January, 1st April, 1st July or 1st September according as the academic year of the course begins in the 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 II 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⁽¹⁶⁾ or a jobseeker’s allowance under Part II of the Jobseekers (Northern Ireland) Order 1995⁽¹⁷⁾;
- (c) the student was available for employment and, if under the age of 18 years, registered for employment;
- (d) the student held a postgraduate studentship or comparable award;
- (e) the student received incapacity benefit under section 30A⁽¹⁸⁾, maternity allowance under section 35(1)⁽¹⁹⁾, severe disablement allowance under section 68(1), statutory sick pay under Part XI⁽²⁰⁾ or statutory maternity pay under Part XII⁽²¹⁾ 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

(15) 1978 c. 30; definition of “Tax Acts” substituted by 1987 c. 16, section 71, Schedule 15, paragraph 12

(16) 1992 c. 7

(17) S.I. 1995/2705 (N.I. 15)

(18) Section 30A was inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

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

(20) Part XI was amended by Article 5(1) of the Statutory Sick Pay (Northern Ireland) Order 1994 (S.I. 1994/766 (N.I. 5)), Article 10 of, and paragraphs 34 and 35 of Schedule 1 to, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and S.R. 1995 No. 69

(21) 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

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.

Part II

Awards

Specified persons

6.—(1) Persons described in Part I of Schedule 2, with the exception of persons described in Part II 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 2 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 Economic Area, throughout the 3 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, parent, guardian, any other person having parental responsibility for him, or any person having care of him while he is a child, is, or was, at the relevant time, employed temporarily outside the British Islands, or, as the case may be, outside the European Economic Area, then, for the purposes of paragraph 1(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 Economic Area 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 1(b) of Schedule 2, a person shall not be regarded as ordinarily resident in the British Islands or the European Economic Area 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 1(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 1(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(22)—

- (a) who was not ordinarily resident in the British Islands throughout the 3 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 Economic Area 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, any other person having parental responsibility for a child and any person having care of a child.

Transitional provisions

8.—(1) Without prejudice to section 29(3)(a) of the Interpretation Act (Northern Ireland) 1954(23) 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, insofar 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 2 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 1(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 20 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 1996;
- (c) where an award has been transferred under Schedule 4, the student to whom the award has been made shall be treated as having attended one course which began on the date

on which the first course began and ended on the expiry of the period which he would ordinarily require for the completion of the second course.

(2) Nothing in paragraph (1) shall affect the duty of the board to make an award to a person in respect of his attendance at—

- (a) a postgraduate course for the initial training of teachers, or
- (b) a course for the degree of Bachelor of Education (or a comparable academic award of an institution or the Council for National Academic Awards) the duration of which does not exceed two years and which is referred to in paragraph (3)

unless that person has;

- (c) previously attended a postgraduate course for the initial training of teachers, or
- (d) successfully completed a course for the degree of Bachelor of Education (or a comparable award of an institution or the Council for National Academic Awards) which is referred to in paragraph (3).

(3) A course is referred to in this paragraph if it is—

- (a) at an accredited institution in England and Wales for the purposes of paragraph 2(1A) of Schedule 3 to the Education (Teachers) Regulations 1993⁽²⁴⁾, or
- (b) approved as a course for the initial training of teachers in schools for the purposes of regulation 16(2)(a) of the Schools Regulations 1959⁽²⁵⁾ or any corresponding provision of regulations from time to time in force under section 27 of the Education Act 1980⁽²⁶⁾ or section 218 of the Education Reform Act 1988⁽²⁷⁾.

(4) Nothing in paragraph (1) shall affect the duty of the board to make an award to a person 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 paragraph (2), 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;

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 1996 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 1996 if the person is a European student.

⁽²⁴⁾ S.I. 1993/543 amended by S.I. 1993/969 and S.I. 1994/222. Paragraph 2(1A) of Schedule 3 was inserted by section 14(2) of the Education Act 1993 (c. 30)

⁽²⁵⁾ S.I. 1959/364, revoked by S.I. 1982/106

⁽²⁶⁾ 1980 c. 20; section 27 was repealed and replaced by section 218 of the Education Reform Act 1988 with effect from 1st April 1989

⁽²⁷⁾ 1988 c. 40; the regulations currently in force are the Education (Teachers) Regulations 1993 (S.I. 1993/543) amended by S.I. 1994/222 and S.I. 1995/602

(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 paragraphs (2) and (3) and 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) Where the board makes an award to a person during a year because he has become—

- (a) a European student as a result of the accession of the State of which he is a national to the European Community; or
- (b) a refugee, or the spouse or child of a refugee, as a result of the recognition of him, or his spouse or parent, as a refugee,

it shall deduct from the sums and grant payable in respect of that year in pursuance of the award under paragraph (1) the amounts referred to in paragraph (3).

(3) The amounts to be deducted under paragraph (2) are—

- (a) from the sum payable in respect of fees under paragraph (1)(a) the amount of any instalment payable before the date on which the student became a European student or the refugee was recognised as a refugee; and
- (b) from the sum or grant payable in respect of maintenance under paragraph (1)(b) the proportion of that sum or grant which relates to the period before the date referred to in sub-paragraph (a).

(4) 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.

(5) Where the academic year of a student's course began in the winter or the spring of 1996 then, notwithstanding anything in these Regulations, payments in pursuance of an award to that student in respect of the year beginning on 1st January 1996 or, as the case may be, 1st April 1996 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 1996 under these Regulations had the academic year of that course begun in the autumn of 1996.

(6) In the case of a course at the University of Buckingham beginning in the winter, spring or summer of 1996 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 1996 under these Regulations had the academic year of the course begun in the autumn of 1996.

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 II 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(1)(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, 6 and 10 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(28), 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 (viii) 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)(viii) 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 may be 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(1)(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;
- (c) “a person’s having attended a course” shall be construed as provided in regulation 9(1).

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).

(5) In determining the appropriate proportion under (4)(b) the board shall disregard the first 28 days of any period of absence due to illness.

Saving

21. In relation to a person who commenced attendance at an 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 before 10th July 1996 or could have commenced such attendance before that date but for choosing to defer such attendance, the following provisions of the Students Awards Regulations (Northern Ireland) 1996 shall continue to apply as if these Regulations had not been made—

- (a) the definition of “institution” in regulation 3(1);
- (b) sub-paragraph (i) of paragraph (a) in Schedule 6.

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

Sealed with the Official Seal of the Department of Education on

L.S.

10th July 1996.

Robson Davison
Assistant Secretary