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STATUTORY INSTRUMENTS

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**1999 No. 496**

**EDUCATION, ENGLAND AND WALES**

**The Education (Student Support) Regulations 1999**

*Made* - - - - 24th February 1999

*Coming into force* - - 3rd March 1999

The Secretary of State for Education and Employment, in exercise of the powers conferred on the Secretary of State by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998<sup>(1)</sup>, hereby makes the following Regulations, a draft of which has been laid before and approved by both Houses of Parliament:—

**PART I**  
**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Education (Student Support) Regulations 1999 and shall come into force one week after the date on which they are made.

**Interpretation**

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

“the 1962 Act” means the Education Act 1962<sup>(2)</sup>;

“the 1998 Regulations” means the Education (Student Support) Regulations 1998<sup>(3)</sup>;

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

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

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

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<sup>(1)</sup> 1998 c. 30.

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

<sup>(3)</sup> S.I.1998/2003.

- “the Act” means the Teaching and Higher Education Act 1998;
- “award” means an award under the 1962 Act;
- “borrower” means a person to whom a loan has been made;
- “contribution” means an eligible student’s contribution calculated pursuant to regulation 21 and Schedule 3;
- “designated course” means a course designated by regulation 5 or by the Secretary of State under regulation 5;
- “disability related benefit” means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial injuries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits Act 1992(4), or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations 1987(5);
- “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(6) as adjusted by the Protocol signed at Brussels on 17th March 1993(7);
- “EEA migrant worker” has the meaning assigned to it in paragraph (5);
- “eligible student” means a person whom the Secretary of State has determined is eligible for support in connection with his attendance at a course in accordance with regulation 6 or 7;
- “European Community” means the territory comprised by the member States of the European Community as constituted from time to time;
- “European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;
- “high cost country” means Australia, Austria, Belgium, Finland, France, Germany, Iceland, Indonesia, Eire, Israel, Italy, Luxembourg, the Netherlands, New Zealand, countries of the former Soviet Union, United States of America;
- “higher cost country” means Denmark, Hong Kong, Japan, Republic of Korea, Norway, Sweden, Switzerland, Taiwan;
- “higher education course” means a course referred to in Schedule 2 or a postgraduate or other course the standard of which is higher than the standard of a first degree course;
- “the Islands” means the Channel Islands and the Isle of Man;
- “loan” means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Act, including the interest accrued on the loan and any penalties or charges made in connection with it;
- “lone parent” means an eligible student who does not ordinarily live with a spouse or with another person as a spouse, and who has a dependant or dependants within the meaning of regulation 15(10);
- “Metropolitan Police District” means the areas referred to in section 76 of the London Government Act 1963(8) disregarding any amendment after these Regulations are made;

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(4) 1992 c. 4, amended by the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 1 to 3, 5 to 6, 8 to 11 and Schedules 1 and 2.

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

(6) Cmnd. 2073.

(7) Cmnd. 2183.

(8) 1963 c. 33; section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), article 11.

“old award” means an award under section 1(1) of the 1962 Act which is an old award within the meaning of the Education (Mandatory Awards) Regulations 1998<sup>(9)</sup> or an award under section 1(6) of that Act which is an old award for the purposes of those Regulations as applied to such awards by virtue of section 1(7) of that Act;

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

“public funds” means moneys provided by Parliament;

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

“refugee” means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951<sup>(10)</sup> as extended by the Protocol thereto which entered into force on 4th October 1967<sup>(11)</sup> and any reference to the child of a refugee includes a reference to a step-child;

“responsible person” means a consular officer, minister of religion, medical or legal practitioner, established civil servant, teacher or police officer;

“sandwich course” has the meaning given it in regulation 5(3);

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

“student loan account number” means the account number assigned by the lender to a loan made under the Act, the Education (Student Loans) Act 1990<sup>(12)</sup>, the Education (Student Loans) (Northern Ireland) Order 1990<sup>(13)</sup>, the Education (Scotland) Act 1980<sup>(14)</sup> or the Education (Student Support) (Northern Ireland) Order 1998<sup>(15)</sup>;

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

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

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

(a) his current course, or

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

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

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<sup>(9)</sup> S.I. 1998/1166, amended by the Education (Mandatory Awards) Regulations 1998 (Amendment) Regulations 1998 (S.I. 1998/1972).

<sup>(10)</sup> Cmnd. 9171.

<sup>(11)</sup> Cmnd. 3906 (Out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Employment, Mowden Hall, Staindrop Road, Darlington DL3 9BG or the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH).

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

<sup>(13)</sup> S.I. 1990/1506 (N.I. 11).

<sup>(14)</sup> 1980 c. 44, amended by the Teaching and Higher Education Act 1998 (c. 30), section 29.

<sup>(15)</sup> S.I. 1998/1760 (N.I. 14).

(3) For the purposes of these Regulations, including for the purpose of determining whether a person is settled in the United Kingdom within the meaning of the Immigration Act 1971(16) for the purposes of these Regulations, a person shall be treated as ordinarily resident in England and Wales, the United Kingdom, the United Kingdom and Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental responsibility for him, or any person having care of him when he is a child is, or was temporarily employed outside the United Kingdom, the United Kingdom and Islands, or as the case may be, outside the European Economic Area and paragraph 8(c) of Schedule 1 shall not apply in the case of such a person.

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

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

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

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

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community(17), as extended by the EEA Agreement; or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the above mentioned Council Regulation.

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

### **Revocations and transitional provisions**

3.—(1) The 1998 Regulations shall be revoked on 1st September 1999.

(2) The 1998 Regulations shall apply to the making of loans to students in relation to an academic year which begins before 1st September 1999, and these Regulations shall apply in relation to the provision of support in connection with attendance at a course during an academic year which begins on or after 1st September 1999, whether anything done under either Regulations is done before or after 1st September 1999.

(3) Accordingly the revocation of the 1998 Regulations shall not affect their continued operation after 1st September 1999 for the purpose of making loans as aforesaid.

(4) If the first academic year of a course began before 1st September 1999 the requirement in regulation 6(2) that an application form be received not later than four months after the beginning of the course shall be treated as a requirement that it be received not later than sixteen months after the beginning of the course.

(5) Where the Secretary of State is satisfied that the certificate or the passport and supporting letter required to be produced by regulation 6(4) were produced by the applicant in support of an application for—

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(16) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4; by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

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

- (a) a transitional award which was bestowed on him, or
- (b) a loan under the 1998 Regulations which he received

that requirement shall not apply.

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

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

he shall be eligible for support by way of grant under Parts III and IV in connection with his attendance at the course, or in connection with his attendance at any subsequent course to which the award (either bestowed or which would have been bestowed) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (7) applies he shall only be eligible for support by way of loan under Part V if he satisfies the conditions for eligibility in these Regulations.

(7) Notwithstanding any other provision of these Regulations where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations he shall be eligible for support by way of loan under Part V in connection with his attendance at the course, or any subsequent designated course which (disregarding any intervening vacation) he starts attending immediately after ceasing to attend that course, but unless paragraph (6) applies he shall only be eligible for support by way of grant under Parts III and IV if he satisfies the conditions for eligibility in these Regulations.

(8) If the eligibility of a person mentioned in paragraph (6) is transferred under regulation 7 regulation 10(9) shall apply but only where the necessary recommendation or consent to the transfer is given later than four months after the end of the first academic year of the course.

(9) Where under the 1998 Regulations a person received or was eligible to receive a loan in relation to an academic year of a part-time course of initial training for teachers he shall be eligible for support by way of loan under Part V calculated in accordance with these Regulations, except that where regulation 12(3)(b) applies regulation 18(12) shall not apply, and for the amounts referred to in regulation 18(1) and (2) there shall be substituted for the amounts in column one the corresponding amounts in column two:

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£2,875	£2,385
4,480	3,225
4,440	3,195
5,275	3,800
3,635	2,805
2,510	2,020
3,885	2,630
3,865	2,615
4,590	3,105
3,150	2,320

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(10) Regulations 11 to 14 of the 1998 Regulations shall apply to loans made under the 1998 Regulations or under these Regulations until 1st September 1999, and Part VIII of these Regulations shall apply to such loans on and after 1st September 1999.

## PART II

### ELIGIBILITY

#### Eligible students

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

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

- (a) an award bestowed on him in respect of his attendance on the course is an old award or where no award was bestowed an award would have been an old award if it had been bestowed;
- (b) he is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;
- (c) there has been bestowed on him or paid to him in relation to his attendance on the course—
  - (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968<sup>(18)</sup> the amount of which is not calculated by reference to his income; or
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992<sup>(19)</sup>;
- (d) he is in breach of any obligation to repay any loan;
- (e) he has not ratified any agreement for a loan made with him when he was under the age of 18; or
- (f) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.

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

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

- (a) before 25th September 1991, and
- (b) with the concurrence of the borrower’s curator, or at a time when he had no curator.

#### Designated courses

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

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(18) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

(19) S.I. 1992/580.

- (a) mentioned in Schedule 2;
  - (b) either a full-time course or a part-time course for the initial training of teachers;
  - (c) of at least one academic year's duration; and
  - (d) wholly provided by an educational institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.
- (2) A full-time course is a sandwich course or a course—
- (a) which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere)—
    - (i) in the case of a course of one academic year's duration, for a period of at least 24 weeks; and
    - (ii) in the case of a course of two or more academic years' duration, for a period of at least 24 weeks in each academic year except the final year and of at least eight weeks in the final year; and
  - (b) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each academic year to an average of at least 21 hours a week as respects the periods of attendance mentioned in sub-paragraph (a) for the year.
- (3) For the purposes of these Regulations a sandwich course is a course other than a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 consisting of alternate periods of full-time study in an institution and periods of work experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purposes of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period.
- (4) For the purposes of these Regulations “periods of work experience” means—
- (a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution, and
  - (b) in the case of a course which includes the study of one or more modern languages for not less than one half of the time spent studying on the course and which includes periods of residence in a country whose language is a language of the course, such periods of residence during which the student is employed.
- (5) For the purposes of these Regulations a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not it has entered an agreement with the student to provide the course.
- (6) For the purposes of paragraph (1) a university and any constituent college or institution in the nature of a college of a university shall be regarded as maintained or assisted by recurrent grants out of public funds if either the university or the constituent college or institution is so maintained or assisted.
- (7) For the purposes of paragraph (1) an institution shall not be regarded as maintained or assisted by recurrent grants out of public funds by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992<sup>(20)</sup>.
- (8) For the purposes of these Regulations a course the standard of which is not higher than a first degree course which leads to a qualification as a medical doctor, a dentist, a veterinary doctor, an architect, a landscape architect, a landscape designer, a landscape manager, a town planner or

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(20) 1992 c. 13; section 65(3A) was inserted by section 27 of the Teaching and Higher Education Act 1998 (c. 30).



a town and country planner shall be considered to be a single course for a first degree or for an equivalent qualification notwithstanding that the course may lead to another degree or qualification being conferred before the degree or equivalent qualification, and notwithstanding that part of the course may be optional.

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

### **Applications for financial support**

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

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

(2) The application form must reach the Secretary of State not later than four months after the first day of the course, but where—

- (a) the course becomes a designated course after the first day of the course, the application must reach the Secretary of State not later than four months after the date on which the course was designated;
- (b) the student, or his spouse or parent, is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1 after the first day of the course, the application must reach the Secretary of State not later than four months after the date of recognition or the date leave was granted respectively;
- (c) the student is not a student mentioned in paragraph 7 of Schedule 1 on the first day of the course but as a result of the accession of the State of which he is a national to the European Community he becomes such a student, the application must reach the Secretary of State not later than four months after the date of the accession;
- (d) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, the application must reach the Secretary of State not later than such date as he specifies.

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

(4) Without restricting the generality of paragraph (3) an applicant shall produce:

- (a) if he was born in the United Kingdom, a certificate issued by the appropriate authority showing the place and date of his birth; or
- (b) if he was born outside the United Kingdom, a valid passport, unless he is a refugee or does not hold one, and in any event a letter or other document issued by a responsible person which contains particulars of his date, place and country of birth and his full name on birth.

(5) The Secretary of State may take such steps and make such inquiries as he considers necessary to determine whether the applicant is eligible for support.



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

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

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

### **Transfers of eligibility**

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

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

(2) Subject to paragraph (3) the Secretary of State, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated course, shall transfer the eligible student’s eligibility, and thenceforth the eligible student shall for all purposes be an eligible student in connection with his attendance at the second course, whether or not he may have been eligible for support if he had applied under regulation 6.

(3) The Secretary of State may, after consulting the academic authority concerned, refuse to transfer eligibility where paragraph (1)(a) or (b) apply if he is satisfied that when the student applied for support he did not intend to complete the course to which his application related.

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

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

### **Termination of eligibility**

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

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

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

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

### **Information**

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

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

- (a) he withdraws from, abandons or is expelled from his course;
- (b) he transfers to another course, at the same or a different institution, whether or not the new course is a designated course;
- (c) he ceases to attend his course and does not intend to or is not permitted to return for the remainder of the academic year;
- (d) he is absent from his course for more than 60 days due to illness, or is absent from his course for any period for any other reason;
- (e) the month for the start or completion of the course changes;
- (f) his home or term time address or telephone number changes.

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

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

## **PART III**

### **GRANTS FOR FEES**

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

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

- (a) fees payable to an institution for awarding or accrediting any qualification where the institution does not provide the whole or part of the course and is not a publicly-funded institution;
  - (b) fees payable for board and lodging;
  - (c) fees payable for field trips (including any tuition element of such fees); and
  - (d) fees payable for attending any graduation or other ceremony.
- (2) Subject to paragraph (3) an eligible student shall not be eligible for a grant under this regulation if he has previously attended any full-time higher education course provided by an institution in the United Kingdom (“the previous course”):
- (a) which was at or before the time the course was provided maintained or assisted by recurrent grants out of public funds; or
  - (b) in respect of his attendance at which a scholarship, exhibition, bursary, grant, allowance, or award of any description which was available to defray fees mentioned in paragraph (1) was paid out of public funds or funds attributable to public funds, by any person or body, public or private.
- (3) For the purposes of this regulation a course is not a previous course if it is—
- (a) the present course, or
  - (b) any course in connection with his attendance at which he was determined to be eligible for support and that eligibility was transferred as a result of one or more transfers under regulation 7 to the present course.
- (4) Paragraph (2) shall not apply where:
- (a) the present course is a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 the duration of which does not exceed two years (a part-time course being treated as its full-time equivalent) and the eligible student has not previously attended a course referred to in paragraph (2) the successful completion of which results in the person completing it being a qualified teacher within the meaning of section 218(2)(a) of the Education Reform Act 1988(21); or
  - (b) the eligible student has previously attended—
    - (i) only one course referred to in paragraph (2), and
    - (ii) the period of attendance for that course did not exceed one academic year; or
  - (c) the aggregate duration of the previous course or courses did not exceed two academic years.
- (5) Where paragraph (4)(c) applies the Secretary of State may determine that the eligible student shall not be eligible for grant for fees in respect of any academic year of the present course other than—
- (a) a year which is the only year of the course;
  - (b) the final year of a course of two or three years' duration; or
  - (c) the number of final years of a course which is two years less than its duration.
- (6) In this regulation any reference to the duration of a course is a reference to the period ordinarily required for its completion by a student who is not excused part of the course on account of his having attended a previous course, in the case of a sandwich course ignoring periods of experience; but for the purposes of paragraph (4)(c) if a student with the consent of the academic authority or authorities concerned—
- (a) ceases to attend one course without completing it, and
  - (b) starts to attend another course at the same or another institution

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(21) 1988 c. 40.

the duration of the course shall be treated as the aggregate of the period spent following the first course and the period which the student in question would ordinarily require for the completion of the second course, in the case of either course being a sandwich course ignoring any periods of experience.

- (7) An eligible student shall not be eligible for a grant for fees in respect of an academic year if—
- (a) in relation to that year he is eligible to receive any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968<sup>(22)</sup> the amount of which is calculated by reference to his income; or
  - (b) he is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS<sup>(23)</sup> and—
    - (i) his course is a course referred to in regulation 5(1)(d), and
    - (ii) all the periods of study during the academic year are at an institution outside the United Kingdom.
- (8) Where an eligible student repeats—
- (a) the first year or part of the first year of his course more than once, or
  - (b) any part of his course other than the first year or part of the first year of his course

the Secretary of State may determine that he shall not be eligible for grant for fees in respect of the academic year during which the student repeats.

- (9) Where the eligibility of an eligible student is transferred under regulation 7(1)(a) or (b) and—
- (a) the necessary recommendation or consent to the transfer is given after the first day on which students were ordinarily required to start attending the second academic year of the course which the student originally attended (“the first course”),
  - (b) the Secretary of State is satisfied after consulting the academic authority or authorities concerned that the recommendation or consent was given after the expiry of the period mentioned not only because the student was required to apply through a clearing admission system, and
  - (c) the Secretary of State is satisfied after consulting the academic authority or authorities concerned that the period from the beginning of the first academic year of the first course to the end of the final academic year of the course which he now attends (“the second course”) exceeds the duration of the first course or the second course, whichever is the longer,

the student shall not be eligible for grant for fees in respect of the number of academic years which is the difference between the above mentioned period and the above mentioned duration.

- (10) For the purposes of paragraph (9)—
- (a) the final academic year of the second course shall be the academic year during which the student is expected to complete the course,
  - (b) in determining the period referred to in that paragraph there shall be included vacations, but not periods of experience which form part of a sandwich course,

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(22) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

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

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

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

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

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

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

### **Maximum amounts of grants**

**11.** The amount of grant for fees in respect of an academic year shall not exceed:

- (a) in the case of a course not covered by any other paragraph, £1,025, but where the final year of the course is ordinarily required to be completed after less than 15 weeks' attendance, £510;
- (b) in the case of a course at an institution which is neither maintained nor assisted by recurrent grants out of public funds, £960;
- (c) where during the academic year of a sandwich course any periods of full-time study are in aggregate less than 10 weeks, £510;
- (d) where during the academic year of a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 any periods of full-time study are in aggregate less than 10 weeks, £510;
- (e) where during the academic year of a course provided in conjunction with an overseas institution the periods of full-time study at the institution in the United Kingdom are in aggregate less than 10 weeks, £510;
- (f) in the case of a sandwich course or a course provided in conjunction with an overseas institution where the periods of full-time study at the institution in the United Kingdom are 10 weeks or more, but in respect of the academic year and any previous academic years the aggregate of any one or two periods of attendance which are not periods of full-time study at the institution (disregarding intervening vacations) exceeds 30 weeks, £510.

## PART IV

### GRANTS FOR LIVING COSTS

#### Eligibility for grants for living costs

**12.**—(1) Subject to and in accordance with the following regulations an eligible student shall be eligible for grant for living costs under this Part if he is:

- (a) under the age of 50 on the first day of the first academic year of the course; or
- (b) aged 50 or over and under the age of 55 on that day, if the Secretary of State is satisfied that he intends to enter employment after he has completed his course.

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

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

- (a) during which he is eligible to receive any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968<sup>(24)</sup> the amount of which is calculated by reference to his income; or
- (b) of a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks.

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

- (a) unpaid service in a hospital or in a public health service laboratory in the United Kingdom;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to health, welfare or the care of children and young persons or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;
- (c) unpaid service in the prison or probation and aftercare service in the United Kingdom;
- (d) unpaid research in an institution in the United Kingdom or, in the case of a student attending an overseas institution as a necessary part of his course, in an overseas institution; or
- (e) unpaid service with—
  - (i) a Health Authority established pursuant to section 8 of the National Health Service Act 1977<sup>(25)</sup> or a Special Health Authority established pursuant to section 11 of that Act<sup>(26)</sup>;

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<sup>(24)</sup> 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 2, 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 1, paragraph 95(2), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

<sup>(25)</sup> 1977 c. 49; section 8 was substituted by the Health Authorities Act 1995 (c. 17), section 1(1).

<sup>(26)</sup> Section 11 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 31, the National Health Service and Community Care Act 1990 (c. 19), Schedule 10 and the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 2.

- (ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(27); or
  - (iii) a health and social services board established under article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(28).
- (5) An eligible student shall be eligible for a grant for living costs in respect of—
- (a) an academic year during which—
    - (i) his course becomes a designated course,
    - (ii) he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1, or
  - (b) any academic year which begins after the events referred to in paragraph (a)
- but shall not be eligible for a grant for living costs in respect of any other academic year.

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

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

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

- (a) not exceeding £10,250 in respect of each academic year for expenditure on a non-medical personal helper;
- (b) not exceeding £4,055 in respect of all the academic years during which the eligible student is eligible for support for expenditure on major items of specialist equipment, but where such payments have been made under the Education Act 1962 in respect of a transitional award holder the amounts of such payments shall be deducted from this maximum;
- (c) for expenditure incurred—
  - (i) within the United Kingdom for the purposes of attending the institution;
  - (ii) within or outside the United Kingdom for the purpose of attending, as a necessary part of his course, any period of study at an overseas institution;
- (d) not exceeding £1,350 in respect of each academic year for any other expenditure including expenditure incurred for the purposes referred to in paragraph (a) or (b) which exceeds the specified maxima.

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

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

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(27) 1978 c. 29; section 2 was amended by the Health and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 1, and by the National Health Service and Community Care Act 1990 (c. 19), section 28 and Schedule 9, paragraph 19(1).

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



in paragraph (b) than he would have been if he had not been in custody, care or having been provided with accommodation

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

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

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

### **Grants for dependants**

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

- (a) a grant of £2,075 for only one of the following:
  - (i) a spouse, or
  - (ii) an adult dependant whose net income does not exceed £2,980, or
  - (iii) an only or eldest dependent child whose net income does not exceed £2,075;
- (b) for each of his dependent children in respect of whom a grant is not payable under subparagraph (a) and whose net income does not exceed the amount of grant applicable to his age by more than £905—
  - (i) under the age of 11 immediately before the beginning of the academic year, a grant of £435;
  - (ii) then aged 11 or over, but under 16, a grant of £870;
  - (iii) then aged 16 or over, but under 18, a grant of £1,150;
  - (iv) then aged 18 or over, a grant of £1,660;

(2) The aggregate amount of grant under paragraph (1) shall be reduced by so much of the aggregate amount of the net income of the eligible student's dependants as exceeds £905 multiplied by the number of such dependants.

(3) If the eligible student's spouse is also an eligible student or holds a statutory award and if in calculating the amount of support for which the spouse is eligible or payment to which he is entitled under the award account is taken of his dependants, the aggregate amount of grant calculated under paragraphs (1) and (2) shall be reduced by one half.

(4) Where the eligible student maintains a dependant who is ordinarily resident outside the United Kingdom the grant under this regulation shall be such amount, if any, not exceeding the aggregate amount of grant calculated under paragraphs (1) to (3) as the Secretary of State considers reasonable in all the circumstances.

(5) Where an eligible student with dependants maintains a home for himself and a dependant at a place other than that at which he resides while attending the course he shall be eligible for a grant of £720.

(6) Where the eligible student is a lone parent he shall in addition to any grant referred to in the preceding paragraphs be eligible for a grant of £1,025.

(7) Where the number of an eligible student's dependants changes during an academic year the Secretary of State shall determine who the student's dependants are for each of the three quarters of the academic year in respect of which instalments of grant are paid under regulation 24(2) by reference to the student's circumstances during the relevant quarter.

(8) Where the Secretary of State has determined who the student's dependants are for a quarter under paragraph (7) the grant for dependants for the quarter shall be one third of the amount of grant for those dependants for an academic year and the amount of grant for the academic year shall be the aggregate of the three amounts so determined.

(9) Where an eligible student is eligible for a grant for living costs in respect of an academic year under regulation 12(5)(a) he shall only be eligible for a grant under this regulation in respect of such of the three quarters of the year in respect of which instalments of grant are paid under regulation 24(2) as begin after the events referred to in regulation 12(5)(a), and subject to paragraphs (7) and (8) the grant for each such quarter shall be one third of the amount for an academic year and the amount for the academic year shall be the aggregate of the amounts payable in respect of each such quarter.

(10) In this regulation—

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

“child” in relation to an eligible student includes a step-child and any child for whom the student has parental responsibility and who is dependent on him;

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

“dependent” means wholly or mainly financially dependent;

“spouse” does not include an eligible 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, or if the spouse is ordinarily living outside the United Kingdom and is not maintained by him.

(11) For the purposes of this regulation a dependant's net income shall be his income from all sources for the academic year in question reduced by the amount of income tax and social security contributions payable in respect of it, but disregarding:

- (a) any pension, allowance or other benefit paid by reason of a disability to which the dependant is subject which is not subject to income tax under the Income Tax Acts, or, where the income is subject to the tax legislation of another member State, which would not be subject to tax under that legislation if it made provision equivalent to those Acts;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992<sup>(29)</sup>;
- (c) any allowance payable to his spouse by an adoption agency in accordance with regulations made under section 57A of the Adoption Act 1976<sup>(30)</sup>;
- (d) any guardian's allowance to which his spouse is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (e) in the case of a spouse with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 23 of the Children Act 1989<sup>(31)</sup>;
- (f) any payments made to his spouse in pursuance of an order made under section 34 of the Children Act 1975<sup>(32)</sup> or under section 15 of and Schedule 1 to the Children Act 1989 or any assistance given by a local authority pursuant to section 24 of that Act.

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<sup>(29)</sup> 1992 c. 4.

<sup>(30)</sup> 1976 c. 36; section 57A was introduced by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41). The relevant instruments are S.I. 1991/2030 and 2742.

<sup>(31)</sup> 1989 c. 41.

<sup>(32)</sup> 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

(12) Where an eligible student or his spouse make any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student's course the spouse's net income shall be reduced by—

- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Secretary of State the obligation had been reasonably incurred; or
- (b) such lesser amount if any as the Secretary of State considers appropriate, if in his opinion a lesser obligation could reasonably have been incurred.

### **Grants for travel**

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

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

(2) In determining the expenditure incurred by an eligible student there shall be disregarded the first £250 of such expenditure.

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

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

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

## **PART V**

### **LOANS FOR LIVING COSTS**

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

17.—(1) Subject to and in accordance with the following paragraphs and regulation 18 an eligible student shall be eligible for loan for living costs if:

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

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

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

- (a) an academic year during which—
    - (i) his course becomes a designated course,
    - (ii) he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1, or
  - (b) any academic year which begins after the events referred to in paragraph (a)
- but shall not be eligible for loan for living costs in respect of any other academic year.

### **Maximum amounts of loans**

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

- (a) for a student who resides at his parent’s home while attending the course, £2,875;
- (b) for a student who does not—
  - (i) if he attends a course provided at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, £4,480;
  - (ii) if he attends for a period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, £4,440 or in a higher cost country, £5,275;
  - (iii) otherwise £3,635.

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

- (a) for a student who resides at his parent’s home while attending the course £2,510;
- (b) for a student who does not—
  - (i) if he attends a course at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, £3,885;
  - (ii) if he attends for a period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, £3,865 or in a higher cost country, £4,590;
  - (iii) otherwise £3,150.

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

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

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

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

the Secretary of State shall determine which of the rates referred to in paragraphs (1) and (2) shall apply for each of the three quarters of the academic year in respect of which instalments of loans are payable under regulation 24(2) by reference to the student's circumstances during the relevant quarter.

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

(8) Where an eligible student is eligible for loan for living costs in respect of an academic year under regulation 17(3)(a) he shall only be eligible for loan in respect of such of the three quarters of the year in respect of which instalments of loan are paid under regulation 24(2) as begin after the events referred to in regulation 17(3)(a), and subject to paragraphs (6) and (7) the maximum loan for each such quarter shall be one third of the amount for the academic year and the maximum amount for the academic year shall be the aggregate of the maximum amounts in respect of each such quarter.

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

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

- (a) for a student who resides or is treated as residing at his parents' home, by £44;
- (b) for a student who does not—
  - (i) if he attends a course provided by the University of London or by an institution within the area comprising the City of London and the Metropolitan Police District, by £84;
  - (ii) if he attends for at least eight weeks and as a necessary part of his course at an overseas institution and the further period of attendance is required at the overseas institution, if the overseas institution is in a high cost country, by £91, if the overseas institution is in a higher cost country, by £118;
  - (iii) otherwise by £63.

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

(12) Where in relation to an academic year an eligible student is not eligible for a grant for living costs by virtue of regulation 12(3) or (4) he shall be eligible for a loan for living costs under this regulation but in paragraphs (1) and (2) there shall be substituted for the amounts in column one below the corresponding amounts in column two:

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£2,875	£1,360
4,480	2,200
4,440	2,180
5,275	2,590
3,635	1,780
2,510	995
3,885	1,605
3,865	1,595

4,590	1,895
3,150	1,295

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### **Applications for loans**

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

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

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

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

- (a) the particulars given in the application form are correct to the best of his knowledge and belief;
- (b) he will notify the Secretary of State (or if any person is exercising functions in relation to his application by virtue of arrangements under section 23(4) of the Act he will notify that person) of any change in them; and
- (c) he will repay any amount lent to him, together with interest and applicable charges and penalties, in accordance with the Act and Regulations made thereunder from time to time.

(4) In any case where—

- (a) the Secretary of State determines that the maximum amount of loan which has been notified to an eligible student in relation to an academic year should be increased (including an increase from nil) as a result of a reassessment of the student's contribution or otherwise, and
- (b) the Secretary of State considers that the increase in the maximum amount does not result from the eligible student—
  - (i) failing to provide information promptly which might affect his eligibility for a loan or the amount of loan for which he is eligible, or
  - (ii) providing information which is inaccurate in any material particular,

he may apply to borrow an additional amount which when added to the amount already applied for shall not exceed the increased maximum.

(5) Such application shall be made by completing and submitting to the Secretary of State an application in such form as he may require not later than one month before the end of the academic year or one month after the date he received notice of the increased maximum amount, whichever is the later.

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

(7) Where an eligible student who has received at least one instalment of his loan has not applied for the maximum amount of loan to which he is entitled in relation to the academic year under the preceding paragraphs he may apply to borrow an additional amount once only under this paragraph, which when added to the amount already applied for shall not exceed the relevant maximum applicable in his case.

(8) Such application shall be made by completing and submitting to the Secretary of State an application in such form as he may require not later than one month before the end of the academic year.

(9) The student shall sign a declaration on the application form in the terms set out in paragraph (3).

### **Hardship loans**

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

(2) A hardship loan shall be not less than £100 and not more than £250, and shall be a multiple of £25.

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

(4) On being satisfied that due to exceptional financial hardship the student may not be able to continue to attend his course for the remaining part of the academic year the Secretary of State shall determine the amount of hardship loan which he considers the student requires, and the student shall be eligible for hardship loan in that amount.

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

(6) The student shall sign a declaration on the application form in the terms set out in regulation 19(3).

## **PART VI**

### **MEANS TEST**

#### **Calculation of contribution**

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

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

#### **Application of contribution**

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

- (a) grant for fees for which is he eligible under regulation 10, other than fees payable in respect of his attendance at a course—



- (i) at an institution which is neither maintained nor assisted by recurrent grants out of public funds, or
  - (ii) at a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 other than a course for a first degree;
  - (b) grant for dependants for which he is eligible under regulation 15;
  - (c) loan for living costs for which he is eligible under regulation 17, other than a loan to which a maximum amount referred to in regulation 3(9) or 18(12) applies;
  - (d) grant for travel costs for which he is eligible under regulation 16.
- (2) Where the contribution exceeds the maximum amount of grant referred to in paragraph (1) (a) the maximum amount shall be reduced to nil, and the balance of the contribution not required to reduce the amount to nil shall be available to reduce the maximum amount of grant referred to in paragraph (1)(b).
- (3) Where—
- (a) regulation 11(c), (e) or (f) applies to the grant for fees for which the student is eligible, or
  - (b) the student is not eligible for grant for fees in pursuance of regulation 10(7)(b),
- the amount available to reduce the maximum amount of grant referred to in paragraph (1)(b) shall be calculated in accordance with paragraph (2), but it shall be assumed that the maximum amount of grant referred to in paragraph (1)(a) is £1,025 rather than the amount referred to in regulation 11(c), (e) or (f) or, in the case of a student who is not eligible for grant in pursuance of regulation 10(7) (b), rather than nothing.
- (4) Where the contribution available to reduce the maximum amount of grant referred to in paragraph (1)(b) exceeds that maximum amount it shall be reduced to nil, and the balance of the contribution not required to reduce the amount to nil shall be available to reduce the maximum amount of loan referred to in paragraph (1)(c).
- (5) Subject to paragraph (6) where the contribution available to reduce the maximum amount of loan referred to in paragraph (1)(c) would reduce that amount to less than the following amounts—
- (a) in the case of a student who resides at his parent's home while attending the course, £2,155;
  - (b) for a student who does not—
    - (i) if he attends a course provided at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, £3,360;
    - (ii) if he attends for a period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, £3,330 or in a higher cost country, £3,955;
    - (iii) otherwise, £2,725
- the maximum amount shall be reduced to that amount, and the balance of the contribution not required to reduce the amount of loan to that amount shall be available to reduce the maximum amount of grant referred to in paragraph (1)(d).
- (6) Where the academic year in question is the final year of a course other than an accelerated course and the contribution available to reduce the maximum amount of loan referred to in paragraph (1)(c) would reduce that amount to less than the following amounts—
- (a) in the case of a student who resides at his parent's home while attending the course, £1,880;
  - (b) for a student who does not—
    - (i) if he attends a course provided at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, £2,915;

- (ii) if he attends for a period of at least eight weeks and as a necessary part of his course an overseas institution in a high cost country, £2,900 or in a higher cost country, £3,440;
- (iii) otherwise, £2,360

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

(7) Where under regulation 18(6) the Secretary of State determines that different rates shall apply for different quarters of the academic year the amount to which the maximum amount shall be reduced in accordance with paragraphs (5) or (6) shall be the aggregate of the three amounts determined under paragraph (8) for the three quarters in respect of which loan is payable.

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

(9) Where the contribution available to reduce the maximum amount of grant referred to in paragraph (1)(d) exceeds that amount it shall be reduced to nil, and the balance of the contribution not required to reduce the amount to nil shall be available for the purpose of the following paragraph.

(10) Where—

- (a) a balance of the contribution is available in accordance with paragraph (9), and
- (b) income referred to in paragraph 1(1)(b) of Schedule 3 is taken into account in calculating the contribution,

the balance, or such part of the balance as does not exceed the amount of income taken into account as described in sub-paragraph (b), whichever is less, shall be available to reduce or further reduce the maximum amounts of grant and loan for which the student is eligible in accordance with paragraph (11).

(11) The contribution available to reduce the maximum amounts of grant and loan in accordance with paragraph (10) shall be subtracted from such amounts in the following order:

- (a) loan for living cost for which the student is eligible under Part V;
- (b) grant for fees for which the student is eligible under Part III;
- (c) grant for students who have left care under regulation 14;
- (d) grant for disabled students' living costs under regulation 13.

## PART VII

### PAYMENTS

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

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

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

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

- (3) No payment of grant for fees shall be made if—
- (a) before the expiry of three months from the beginning of the academic year the eligible student ceases to attend the course, and
  - (b) the academic authority has determined or agreed that he will not commence attending again during the academic year in respect of which the fees are payable, or at all.

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

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

(2) Grants for which a student is eligible under regulation 15 and loans for which a student has applied under Part V other than a loan under regulation 20 shall be payable in respect of three quarters of the academic year, and no instalment shall be payable in respect of the quarter during which in the opinion of the Secretary of State the longest of any vacations is taken.

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

- (a) if the first instalment is paid during the first quarter of the academic year in respect of which the support is payable it shall be paid in three equal instalments during the quarters in respect of which it is payable;
- (b) if the first instalment is paid during the second quarter of the academic year in respect of which support is payable it shall be paid in two instalments during the quarters in respect of which it is payable, the first amounting to two thirds of the amount to be paid, and the second one third of that amount; and
- (c) if the first instalment is paid during the third quarter of the academic year in respect of which the support is payable it shall be paid in one instalment.

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

(5) Subject to regulation 7 no support referred to in paragraph (2) shall be payable in respect of a quarter beginning after an eligible student has withdrawn from, abandoned or been expelled from his course.

(6) No support referred to in paragraph (2) shall be payable in respect of a quarter during any part of which an eligible student is absent from his course, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances to pay all or part of the support.

(7) In deciding whether it would be appropriate to pay all or part of the support under paragraph (6) the circumstances which the Secretary of State shall have regard to shall include the reasons for the student's absence, the length of the absence, and the financial hardship which not paying all or part of the instalment would cause.

(8) An eligible student shall not be considered to be absent from his course if he is unable to attend due to illness and his absence has not exceeded 60 days.

(9) Where after the Secretary of State has made any payment of support referred to in paragraph (2) he makes a determination of the amount of grant for which the student is eligible in respect of an academic year under regulation 15 either for the first time or by way of revision of a provisional or other determination of that amount—

- (a) if the determination increases the amount of grant for which the student is eligible he shall pay the additional amount in instalments in accordance with paragraph (3), paying the first instalment as soon as is reasonably practicable after the determination and any subsequent instalment with instalments already payable;
- (b) if the determination decreases the amount of grant for which the student is eligible he shall subtract the amount of the decrease from any instalments of grant which remain to be paid under regulation 15, so that the instalments continue to bear the proportion to each other referred to in paragraph (3);
- (c) if the amount of the decrease is greater than the amount of grant remaining to be paid that amount shall be reduced to nil, and the balance subtracted from any other grant for which the student is eligible in respect of the academic year;
- (d) any remaining overpayment shall be recovered in accordance with regulation 25.

(10) Where the Secretary of State has made any payment of support referred to in paragraph (2) and a student who is eligible for a loan under Part V other than a loan under regulation 20 applies for such a loan or applies for an additional such loan in respect of an academic year the Secretary of State shall pay the loan or the additional loan in instalments in accordance with paragraph (3), paying the first instalment as soon as is reasonably practicable after a satisfactory application has been received and any subsequent instalment with instalments already payable.

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

- (a) he shall subtract such amount as is necessary to ensure that the student does not borrow an amount greater than the amount which he is eligible to borrow from any instalments of loan which remain to be paid, so that the instalments continue to bear the proportion to each other referred to in paragraph (3);
- (b) if the amount to be subtracted is greater than the amount of loan remaining to be paid that amount shall be reduced to nil;
- (c) any remaining overpayment shall be recovered in accordance with regulation 25.

### **Overpayments**

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

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

- (a) by subtracting the overpayment from any other grant for which the student is eligible in respect of the academic year in question, or if necessary from any other grant for which he is eligible in respect of any other academic year;
- (b) by subtracting the overpayment from any payment of loan for living costs under Part V which is payable under regulation 24;
- (c) by taking such other action for the recovery of a payment without statutory authority as is available to him.

(3) Any overpayment of a loan for living costs under Part V in respect of any academic year may be recovered if in the opinion of the Secretary of State—

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

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

(4) Where an overpayment of loan is treated as properly made under paragraph (3) the Secretary of State may subtract the overpayment from the amount of loan for which the student is eligible in respect of any other academic year.

(5) Where an overpayment of loan for living costs is recoverable in accordance with paragraph (3) it shall be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances:

- (a) by subtracting the overpayment from the amount of loan for which the student is eligible in respect of any other academic year;
- (b) by subtracting the overpayment from any grant for which the student is eligible in respect of the academic year in question, or if necessary from any grant for which he is eligible in respect of any other academic year;
- (c) by taking such other action for the recovery of a payment made without statutory authority as is available to him.

## PART VIII

### LOAN REPAYMENTS AND INTEREST

#### Interest

**26.**—(1) Subject to paragraph (2) loans shall bear interest at the rate which in relation to a loan made under these Regulations on or after 1st September 1999 will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980<sup>(33)</sup> equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March 1998 and that index so published for March 1999.

(2) If the rate referred to in paragraph (1) exceeds the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974<sup>(34)</sup> loans shall bear interest at the rate so specified.

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

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

#### Repayments

**27.**—(1) A borrower may pay any part of or all of any moneys he owes to the Secretary of State under the Act and Regulations at any time without charge or penalty.

(2) A borrower shall not be required to pay any moneys he owes before 6th April 2000.

(3) Any liability of a borrower under the Act and Regulations shall be cancelled if he—

- (a) dies;
- (b) is not in breach of any obligation to repay any loan and he has attained the age of 65; or

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<sup>(33)</sup> S.I. 1980/51, amended by S.I. 1985/1192, 1989/596.

<sup>(34)</sup> 1974 c. 39.

- (c) receives a disability related benefit and the Secretary of State is satisfied that because of his disability he is permanently unfit for work.
- (4) For the purposes of paragraph (3) “loan” has the meaning given in regulation 4(3).

### **Insolvency**

**28.**—(1) In England and Wales there shall not be treated as part of a bankrupt’s estate or claimed for his estate under section 307 or 310 of the Insolvency Act 1986<sup>(35)</sup> any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy.

(2) In Scotland, where after the date of sequestration of a person’s estate, he receives, or is entitled to receive, sums by way of loan—

- (a) the sheriff shall not, in fixing an amount under subsection (2) of section 32 of the Bankruptcy (Scotland) Act 1985<sup>(36)</sup>, treat the sums as income of the person; and
- (b) for the purpose of subsection (6) of that section the sums shall not be treated as estate vesting in, or requiring to be conveyed or delivered to, the person’s permanent trustee.

(3) In Northern Ireland there shall not be treated as part of a bankrupt’s estate or claimed for his estate under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989<sup>(37)</sup> any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy.

24th February 1999

*Tessa Blackstone*  
Minister of State,  
Department for Education and Employment

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<sup>(35)</sup> 1986 c. 45; section 310 was amended by the Pensions Act 1995 (c. 26), Schedule 3, paragraph 15.

<sup>(36)</sup> 1985 c. 66.

<sup>(37)</sup> S.I. 1989/2405 (N.I. 19).

## SCHEDULE 1

Regulation 4(1)

### ELIGIBLE STUDENTS

1. A person who on the first day of the first academic year of the course—
  - (a) is settled in the United Kingdom within the meaning of the Immigration Act 1971(38), and
  - (b) meets the residence conditions referred to in paragraph 8.
2. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so resident since he was recognised as a refugee, or who is the spouse, child or stepchild of such a refugee, in each case who meets the residence condition in paragraph 8(a).
3. A person who—
  - (a) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom,
  - (b) has been granted leave to enter or to remain accordingly, and
  - (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remainor who is the spouse, child or stepchild of such a person, where the person, or as the case may be the spouse, child or stepchild meets the residence conditions referred to in paragraph 8.
4. A person who is an EEA migrant worker who—
  - (a) is entitled to support by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement(39), or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3); and
  - (b) meets the residence conditions referred to in paragraph 8.
5. A person who is the spouse of an EEA migrant worker and who—
  - (a) is installed in the United Kingdom with his spouse, and
  - (b) meets the residence conditions referred to in paragraph 8.
- 6.—(1) A person who is the child of an EEA migrant worker and who—
  - (a) is entitled to support by virtue of Article 12 of the above mentioned Council Regulation, or, where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12, and
  - (b) meets the residence conditions referred to in paragraph 8.(2) For the purposes of this paragraph “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.
7. A person who is a national of a member State of the European Community—
  - (a) whose course is provided by an institution or institutions in England and Wales, or by an institution or institutions in England and Wales in conjunction with an institution or institutions outside the United Kingdom, and

(38) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4; by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

(39) OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968(II) p. 475).



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

## SCHEDULE 2

Regulation 5(1)

### DESIGNATED COURSES

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

## SCHEDULE 3

Regulation 21(1)

### MEANS TEST

#### PART I

#### STUDENT'S INCOME

##### Calculation of student's income

1.—(1) In calculating an eligible student's income for the purposes of regulation 21 there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, and any payment referred to in paragraph (b), whether or not it is income, but there shall be disregarded the following—

- (a) the first £820 of income of any description, or where the eligible student is a lone parent, the first £ of income of any description;
- (b) the first £1,000 of any payment by way of—
  - (i) scholarship, studentship, exhibition, bursary, award, grant, allowance or benefit however described payable in connection with the student's attendance on the course, otherwise than under the Act and regulations made under it; and
  - (ii) in the case of a student 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 or is relieved of his normal duties for the purpose of attending the course; except that, if the person's course is a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks, any payments by way of remuneration shall be disregarded;
- (c) any payment under a bursary or award of similar description bestowed on him under section 63 of the Health Services and Public Health Act 1968<sup>(40)</sup>;
- (d) any grant to facilitate teacher training paid to the eligible student under regulations made under section 50(1) of the Education (No. 2) Act 1986<sup>(41)</sup>;
- (e) in the case of an eligible student for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5)—
  - (i) the whole of that income or those payments if a parental contribution ascertained in accordance with Part II or a spouse's contribution ascertained in accordance with Part III is applicable (at whatever amount including nil that contribution is ascertained to be), or

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<sup>(40)</sup> 1968 c. 46; section 63 was amended by the [National Health Services Reorganisation Act 1973](#) (c. 32), Schedule 4, paragraph 124 and Schedule 5, the [National Health Service Act 1977](#) (c. 49), Schedule 15, paragraph 45 and Schedule 16, the [National Health Services \(Scotland\) Act 1978](#) (c. 29), Schedule 16, paragraph 2692) and Schedule 17, the [Health Services Act 1980](#) (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the [Local Government Act 1985](#) (c. 51), Schedule 17, the [Family Practitioner Committees \(Consequential Modifications\) Order 1985](#) (S.I. 1985/39), article 6(1), the [Health and Medicines Act 1988](#) (c. 49), section 20, section 25(2) and Schedule 3, the [Local Government \(Scotland\) Act 1994](#) (c. 39), Schedule 13, paragraph 74(1) and (2), the [Health Authorities Act 1995](#) (c. 17), Schedule 1, paragraph 95(1) and (2), the [Local Government Reorganisation \(Wales\) \(Consequential Amendments\) \(No. 2\) Order 1996](#) (S.I. 1996/1008), the Schedule, paragraph 1, and the [National Health Service \(Primary Care\) Act 1997](#) (c. 46), Schedule 1, paragraph 1(4).

<sup>(41)</sup> 1986 c. 61; section 50 was amended by the [Education Act 1993](#) (c. 35), section 278(6), Schedule 19, paragraph 102, Schedule 21 Part II, and by the [Education Act 1994](#) (c. 30), section 13(2) to (4).

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- (ii) the first £1,855 of that income or those payments if such a contribution would be applicable but for the fact that the eligible student is such a student as is described in paragraph 3(b), (c), (d), (e) or (f);
- (f) any pension, allowance or other benefit paid by reason of a disability to which the eligible student is subject which is not subject to income tax under the Income Tax Acts;
- (g) any bounty received as a reservist with the armed forces;
- (h) remuneration for work done during any academic year of the eligible student's course;
- (i) in the case of an eligible student in whose case a parental contribution is by virtue of Part II of this Schedule applicable (at whatever amount, including nil, that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;
- (j) any payment made for a specific educational purpose otherwise than to meet such fees as are mentioned in Part III and living costs as are mentioned in Parts IV and V;
- (k) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992(42);
- (l) any allowance payable to the eligible student by an adoption agency in accordance with regulations made under section 57A of the Adoption Act 1976(43);
- (m) any guardian's allowance to which he is entitled under section 77 of the Social Security Contributions and Benefits Act 1992(44);
- (n) in the case of an eligible student with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 23 of the Children Act 1989(45);
- (o) any payments made to the eligible student in pursuance of an order made under section 34 of the Children Act 1975(46) or under section 15 of and Schedule 1 to the Children Act 1989 or any assistance given by a local authority pursuant to section 24 of that Act;
- (p) income support or family credit under Part VII of the Social Security Contributions and Benefits Act 1992;
- (q) any housing benefit or community charge benefits granted to the eligible student in pursuance of a statutory or local scheme under Part VII of the Social Security Contributions and Benefits Act 1992 or any council tax benefit granted to him in pursuance of a statutory or local scheme under that Act;
- (r) the first £3,105 of any pension, allowance or other benefit payable by reason of disability to which the eligible student is subject, his old age, his retirement, the death of his spouse or parent or another person on whom he was wholly or mainly financially dependent, or by reason of his military or other public service;
- (s) any payments made to the eligible student under the action scheme of the European Community for the mobility of university students known as ERASMUS(47), the European Community programme for foreign language competence known as LINGUA(48) or the European Community programme known as LEONARDO DA VINCI(49);

(42) 1992 c. 4; there are amendments which are not relevant.

(43) 1976 c. 36; section 57A was introduced by the Children Act 1989 (c. 41), Schedule 10, paragraph 25; the relevant instruments are S.I. 1991/2030, 2130 and 2742.

(44) 1992 c. 4.

(45) 1989 c. 41.

(46) 1975 c. 72; a new section 34 was substituted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), section 64; the Act was repealed by the Children Act 1989 (c. 41), Schedule 15.

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

(48) LINGUA is part of the European Community action programme known as SOCRATES, OJ No. L87, 20.4.95, p. 10.

- (t) any payment made to the eligible student out of access funds held by the institution at which he attends his course.
- (2) Where income may be disregarded under more than one of the sub-paragraphs of paragraph (1) it shall be disregarded under the sub-paragraph or sub-paragraphs which will result in the largest amount of the eligible student's income from all sources being disregarded under paragraph (1).
- (3) Where an eligible student is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph and his income arises from sources or under legislation different from sources or legislation normally relevant to a person mentioned in paragraph 1 of Schedule 1 his income shall not be disregarded in accordance with paragraph (1) but shall be disregarded to the extent necessary to ensure that he is treated no less favourably than a person in similar circumstances in receipt of similar income who is mentioned in Schedule 1 would be treated.
- (4) In the case of an eligible student who makes any payment in pursuance of an obligation incurred before the first year of his course, in calculating his income for the purposes aforesaid there shall be deducted therefrom—
- (a) if, in the opinion of the Secretary of State, the obligation had been reasonably so incurred, an amount equal to the payment in question;
  - (b) if, in his opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to him appropriate;
- except that no deduction shall be made from the income of a married student where the student's spouse is a dependant for the purpose of regulation 15 and, in pursuance of regulation 15(12) the payment is taken into account in determining the spouse's income.
- (5) In a case where the eligible student is the parent or step-parent of an eligible student in respect of whom a contribution is ascertained under Part II of this Schedule, so much of the amount (if any) by which the contribution is reduced under paragraph 4(3) as the Secretary of State considers just shall be treated as part of the eligible student's income for the purposes of this regulation.
- (6) Where the eligible student is a lone parent having one or more dependent children under the age of 19 within the meaning of regulation 15 he may elect to be ineligible for grant under that regulation and to have disregarded in calculating his income under this regulation £2,380 in respect of his only or eldest such child and £750 in respect of every other such child.
- (7) Where the eligible student receives income in a currency other than sterling the value of the income shall be—
- (a) if the student purchases sterling with the income the amount of sterling the student receives for it, and
  - (b) otherwise the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics in "Financial Statistics".

## PART II

### PARENTAL CONTRIBUTION

#### Definitions and construction of Part II

- 2.—(1) In this Part of this Schedule—

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

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

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

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

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

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

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

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

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

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

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

- (a) it shall be computed in the currency of that member State,
- (b) the value of any deduction mentioned in paragraph 6(2) shall be the amount of that currency required to purchase the sterling value of the deduction, and

- (c) the value of the sterling which the income of the eligible student's parent in that currency would purchase shall be determined, and shall constitute the income of the student's parent for the purposes of this Part.

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

### **Application of Part II**

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

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

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

- (h) his parents are residing outside the European Community and the Secretary of State is satisfied either that—
  - (i) the assessment of a parental contribution would place those parents in jeopardy; or
  - (ii) it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;
- (i) paragraph 5(7) applies and the parent whom the Secretary of State considered the more appropriate for the purposes of that sub-paragraph has died;
- (j) he is a member of a religious order who resides in a house of his order.

(2) For the purposes of paragraph (1)(b) an eligible student shall be treated as having supported himself out of his earnings for any period or periods for which—

- (a) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, national, regional or local;

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- (b) the student was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;
- (c) the student was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) or (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit;
- (d) the student held a State Studentship or comparable award;
- (e) the student received any pension, allowance or other benefit paid by reason of a disability to which he is subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer, or by any other person; or
- (f) the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was wholly or mainly financially dependent upon him.

(3) For the purposes of paragraph (1)(f) an eligible student shall be regarded as irreconcilably estranged from his parents if, but not only if, he has communicated with neither of them for the period of one year before the beginning of the year for which payments in pursuance of his award fall to be made.

#### **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 £17,370 or more but less than £22,200, £45 with the addition of £1 for every complete £13 by which it exceeds £17,370;
  - (b) in any case in which the residual income is £22,200 or more but less than £32,635, £416 with the addition of £1 for every complete £9.20 by which it exceeds £22,200; and
  - (c) in any case in which the residual income is £32,635 or more, £1,550 with the addition of £1 for every complete £7.50 by which it exceeds £32,635,

reduced in each case in respect of each child of the parent (other than the student) who is wholly or mainly financially dependent on him on the first day of the year for which the contribution falls to be ascertained, by £75; and in any case in which the residual income is less than £17,370 the parental contribution shall be nil.

(2) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall in no case exceed £6,280.

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

#### **Gross income**

5.—(1) For the purposes of this paragraph “preceding financial year” means the financial year preceding the academic year in respect of which the resources of the eligible student fall to be

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

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

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

(4) Where—

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

the parental contribution shall—

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

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

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

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

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



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- (a) the appropriate proportion of the contribution determined as provided in sub-paragraph (7), that is to say such proportion thereof as the part of the relevant year for which the parents do not so live together bears to the full year; and
  - (b) the appropriate proportion of the contribution determined without regard to this sub-paragraph, that is to say, such proportion thereof as the part of the relevant year for which the parents so live together bears to the full year.
- (9) Where one of the eligible student's parents is his step-parent the parental contribution shall be ascertained by reference only to the income of the other parent.

### **Deductions**

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

- (a) by way of personal reliefs provided for in Chapter I of Part VII of the Income and Corporation Taxes Act 1988<sup>(50)</sup>, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, any comparable personal reliefs;
- (b) in respect of any payment made by the parent under covenant;
- (c) in pursuance of any legislation or rule of law with the effect that payments which for the purposes of the law of the United Kingdom are treated as income are not treated as income; or
- (d) without prejudice as aforesaid, of a kind mentioned in sub-paragraph (2), shall not be made or permitted.

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

- (a) in respect of any person, other than a spouse, child or eligible student, wholly or mainly financially dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which £2,195 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, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, the gross amount of any such sums in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (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), or where the parent's income is computed as for the purposes of the income tax legislation of another member State, half of the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (d) the gross amount of any other premium or sum in respect of which relief is given under section 266, 273, 619 or 639 of that Act, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;

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(50) 1988 c. 1.

- (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 £1,720;
- (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 £1,720;
- (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 Secretary of State considers reasonable in all the circumstances;
- (h) any payments made to the parent of the student in pursuance of an order of a competent court for the benefit of a child who is not his child of whom he has custody or care or for whom he provides accommodation.

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

## PART III

### SPOUSE'S CONTRIBUTION

#### Application of Part III

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

(2) The spouse's contribution shall be—

- (a) in any case in which the residual income is £14,700 or more but less than £22,200, £45 with the addition of £1 for every complete £9.80 by which it exceeds £14,700;
- (b) in any case in which the residual income is £22,200 or more but less than £32,635, £810 with the addition of £1 for every complete £7.05 by which it exceeds £22,200; and
- (c) in any case in which the residual income is £32,635 or more, £2,290 with the addition of £1 for every complete £5.60 by which it exceeds £32,635;

reduced in any such case by £75 in respect of each child of the eligible student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and

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in any case in which the residual income is less than £14,700 the spouse's contribution shall be nil; provided that the amount of the spouse's contribution shall in no case exceed £6,280.

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

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

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## EXPLANATORY NOTE

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

These regulations, which come into force on 3rd March 1999 are the second regulations made under section 22 of the Teaching and Higher Education Act 1998. They provide for grants for fees, loans for maintenance and supplementary grants for maintenance for eligible students in connection with their attendance on designated higher education courses in an academic year beginning on or after 1st September 1999. They are the first regulations under the 1998 Act to draw together provision for grants and loans, both of which are now in part means tested. They apply to students who began their courses in September 1998 or later. Students who began their courses before then, and certain students who began their courses after then, remain subject to the previous system of mandatory awards for fees and maintenance, and mortgage style loans for maintenance.

Transitional provisions ensure that students who started courses in the 1998/99 academic year and who were eligible for grants under the Education (Mandatory Awards) Regulations 1998 and/or loans under the Education (Student Support) Regulations 1998 will continue to be eligible for grants or loans respectively under the 1999 Regulations in the second and subsequent years of their courses (regulation 3(6) and (7)).

Students are eligible for financial support under the Regulations if on the first day of the first academic year of the course they are settled in the United Kingdom for the purposes of the Immigration Act 1971, on that day they are ordinarily resident in England and Wales, and for the three years immediately preceding that day they have been ordinarily resident in the United Kingdom and Islands for purposes other than receiving full-time education (Schedule 1, paragraphs 1 and 8). Students may also be eligible if they are refugees, if they have been given exceptional leave to enter or remain in the United Kingdom, or if they are European Economic Area migrant workers, or the spouses or children of such workers (Schedule 1, paragraphs 2 to 6). Such students must also be ordinarily resident in England and Wales on the first day of the course and in certain cases meet residence requirements (Schedule 1, paragraph 8).

Students who are nationals of a member State of the European Community (including the United Kingdom) who are attending a course in England and Wales are eligible for grants for fees (Schedule 1, paragraph 7). Such students must for the three years immediately preceding the first day of the academic year of the course have been ordinarily resident in the European Economic Area

for purposes other than receiving full-time education (Schedule 1, paragraph 8). Students who are eligible to receive certain non-means-tested National Health Service bursaries or awards, who are in breach of any obligation to repay any student loan, who have failed to ratify any other student loan they received when they were under the age of 18, or who have shown themselves by their conduct to be unfitted to receive support, are ineligible (regulation 4(2)).

A student will generally not be eligible for grants for fees who has previously attended a full-time course provided by an institution in the United Kingdom maintained or assisted from public funds, or who has otherwise previously received support from public funds which was available to defray fees (regulation 10(2)). Exceptions to this are where the present course is a course of initial teacher training, or the student has attended one previous course for not more than one academic year (regulation 10(4)). Students who have previously attended one or more courses of up to two years' duration in total are eligible for limited grant for fees (regulation 10(5)). Students participating in the ERASMUS scheme, whose periods of study in the academic year are all at an institution outside the United Kingdom, are not eligible for grants for fees for the year in question (regulation 10(7)). These students have their fees automatically paid from other funds.

Students who repeat part or all of their course may receive grant for fees for the repeat period. Except where the student is repeating all or part of the first year for the first time, eligibility for grant for fees is at the Secretary of State's discretion (regulation 10(8)).

Students who receive consent or recommendation to transfer before they start the second year of their course are eligible for grant for fees for the duration of the second course. Where the consent or recommendation is received later, the student is eligible for support (including that which he has already received) for the number of years equal to the ordinary duration of whichever is the longer of the original or the new course (regulation 10(9)).

To be eligible for a loan and for grants for living costs a student must be aged under 50 on the first day of the first academic year of the course, or aged between 50 and 54 years and intending to return to employment on completing his studies (regulations 12(1) and 17(1)). Students aged 50 or over who started courses in the academic year beginning 1st September 1998 will now be eligible for loans if they have the required intention; if they were entitled to grants for living costs under the Education (Mandatory Awards) Regulations 1998 they will continue to be eligible for supplementary grants for living costs under these Regulations in any case (regulation 3(6)).

Students are not eligible for grants for living costs who are eligible to receive one of certain means-tested National Health Service bursaries or awards, who are on part-time courses of initial teacher training involving less than six weeks' full-time attendance during the academic year (regulation 12(3)), or who are on sandwich placements other than certain unpaid placements (regulation 12(4)).

To be eligible students must also attend a designated course (regulation 5). Courses which are designated courses for the purposes of the Act and Regulations are specified in Schedule 2. Such courses must be full-time or sandwich courses or part-time courses for the initial training of teachers, of at least one academic year's duration, and be provided at least in part by an institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds (regulation 5(1)). The Secretary of State may designate other courses by administrative act from time to time (regulation 5(9)).

Students must apply for student support under the Regulations by submitting an application form, usually not later than four months after the first day of the course, or not later than sixteen months after the first day if the course started in the 1998/99 academic year. They must provide evidence of their place and date of birth and any other evidence which the Secretary of State requires to establish their eligibility (regulation 6).

Students may request that their eligibility for support be transferred to another course, either at the same or a different institution. In some cases the recommendation or consent of the institution and

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any other institution concerned must be obtained. The Secretary of State may refuse such a transfer in certain cases (regulation 7).

A student's eligibility may be terminated where the period ordinarily required to complete the course has expired, where the student has withdrawn from, abandoned or been expelled from his course, or where he has shown himself unfitted by his conduct to receive support (regulation 8).

Students must provide any information required by the Secretary of State in exercising his functions under the Regulations as soon as reasonably practicable, and notify him immediately if any of certain particulars relating to their attendance on a course change (regulation 9).

Specified grants for living costs are available in respect of extra costs arising from a disability; to certain students who have been in custody or care pursuant to a court order; in respect of dependants; and in respect of certain travel costs above a disregard (regulations 13 to 16).

Students are eligible for different rates of loan according to where they live and study; whether they are in their final year of the course; and whether they are studying at an overseas institution as a necessary part of the course. Students who have to attend their courses above a certain number of weeks in the academic year are eligible for additional loans at a weekly rate (regulation 18).

Students who are eligible to receive one of certain means-tested National Health Service bursaries or awards, who are on sandwich placements (other than certain unpaid placements specified in regulation 12(4) where the periods of full-time study at the institution during the academic year are less than ten weeks in total, or who are on part-time courses of initial teacher training involving less than six weeks' full-time attendance during the academic year, are eligible for non-means-tested loans at 50 per cent of the rates specified (regulation 18(11)).

Students who are eligible for a loan and who wish to apply for a loan in relation to an academic year must submit an application in such form as the Secretary of State requires not later than one month before the end of the academic year (regulation 19(1)). The student must include in the application his United Kingdom national insurance number, if he has one, his most recent student loan account number, if any, and details of two persons known to him (regulation 19(2)).

Where the Secretary of State determines that the maximum amount of loan notified to a student in relation to an academic year should be increased, and this is not due to the eligible student failing to provide information promptly or providing inaccurate information, the student may apply for an additional amount which when added to the amount already applied for does not exceed the increased maximum (regulation 19(4)).

In any case where a student has received at least one instalment of loan in relation to an academic year and has not applied for the maximum amount to which he is entitled in relation to the academic year, he may apply once only to borrow an additional amount which when added to the amount already applied for does not exceed the increased maximum (regulation 19(7)).

A student who has applied for the maximum amount of loan in relation to an academic year which has been notified to him, and who has received at least one instalment of that loan, may apply for a hardship loan of not less than £100 and not more than £250 and which is a multiple of £25 (regulation 20(2)). He must satisfy the Secretary of State that due to exceptional financial hardship he may not be able to continue to attend for the balance of the academic year (regulation 20(4)). The Secretary of State shall determine the amount of hardship loan which he considers the student requires (regulation 20(4)). The student must then apply for the hardship loan not later than one month after he receives notice of this determination and not later than one month before the end of the academic year (regulation 20(5)).

A student's contribution to his fees and living costs, if any, in relation to an academic year is the aggregate of his income for the year and any parental or spouse's contribution (regulation 21). Contributions are calculated in accordance with Schedule 3. In calculating a student's income, income from certain sources, and the first elements of income from certain other sources, is disregarded (Schedule 3, paragraph 1(1)). There are special provisions for the calculation of income

where the student is eligible for grant for fees as a national of another member State of the European Community, where the student makes any payment in pursuance of an obligation incurred before the first year of the course, where the student is a step-parent or parent of an eligible student, where the student has one or more dependent children, and where the student receives income in a currency other than sterling (Schedule 3, paragraph 1(3) to (7)).

A parental contribution ascertained in accordance with Part II of Schedule 3 is applicable except in certain specified circumstances (paragraph 3), and is calculated under paragraph 4 of that Part on the basis of the parent's gross income in the preceding tax year less certain deductions (paragraph 5(1) and (2) and paragraph 6). In certain circumstances the contribution is calculated on the basis of income for the current tax year (paragraph 5(3)). There are also special provisions for where one of the eligible student's parents dies before or during the year in respect of which the resources of the student fall to be ascertained (paragraph 5(4)).

The deductions made from the parent's gross income include, in certain circumstances, allowances for other dependants, the gross amount of any sums paid as interest which qualify for tax relief, half of the gross amount of any life assurance premiums which qualify for tax relief, the gross income of any other premiums or sums which qualify for tax relief, amounts for domestic assistance, additional expenditure incurred by reason of the parent living in a place where the cost of living is higher than that in the United Kingdom, an amount where the parent is an eligible student, and any payments made in pursuance of an order of a competent court for the benefit of a child who is not his child of whom he has custody or care or provides accommodation (Schedule 3, paragraph 6).

Provisions for ascertaining a spouse's contribution in Schedule 3 Part III broadly mirror those for parental contributions. There are special arrangements for calculating the spouse's contribution where a student marries, or a marriage is terminated, during any academic year for which the contribution falls to be ascertained (Schedule 3, paragraphs 8(3) and (4)).

The maximum amounts of grants or loans for which a student is eligible are the amounts remaining after subtracting his contribution from the maximum amount of any grant for fees (except in respect of attendance on a course at an institution which is neither maintained nor assisted out of public funds, or on a course for the initial training of teachers other than a first degree course), grants for dependants, an element of loan for living costs (except where the student is eligible for loans at 50 per cent. of the rates specified in regulation 18) and grant for travel costs (regulation 22).

Where a lower maximum grant for fees is applicable in relation to an academic year, or where none is applicable because the student is participating in the ERASMUS scheme, it is assumed in applying the student contribution that the usual maximum grant for fees is available. This is so that the contribution is applicable to other elements of support in the same way that it would be if the usual grant for fees were available (regulation 22(3)).

Where the student's contribution exceeds the maximum amounts of grant for fees, grants for dependants, loan for living costs and grant for travel costs to which it is applicable, and where his income includes income from a scholarship, studentship or similar award payable in connection with the student's attendance on the course, or income from an employer who has given the student paid leave to attend the course, the balance of the contribution, or such part of it as does not exceed the amount of such income, is applied to reduce elements of support not already reduced, that is: non-means-tested loan for living costs; non-means-tested grant for fees; grant for students who have left care; and grant for disabled students' living costs (regulation 22(7) and (8)).

Grants for fees are paid on receipt of a valid request for payment from the academic authority, but not earlier than three months after the beginning of the academic year and not later than ten weeks after the end of that period. Payments are to be made promptly where the request is received after that period. No payments shall be made if within that three month period the eligible student ceases to attend the course and the academic authority has determined or agreed that he will not commence attending again during the academic year in respect of which the fees are payable (regulation 23(1) to (3)).

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

Grants for dependants and loans (other than hardship loans) are payable in respect of three quarters of the academic year (regulation 24(2)). Payments are made in up to three instalments, depending on whether the first instalment is to be paid in the first, second or third quarter (regulation 24(3)), and in such manner as the Secretary of State considers appropriate. He may make it a condition of entitlement to payment that the eligible student provides particulars of a United Kingdom bank or building society account into which payment may be made by electronic transfer (regulation 24(4)). Support is not payable in respect of a quarter beginning after a student has withdrawn from, abandoned or been expelled from his course. Nor is it normally payable in respect of a quarter during any part of which the student is absent from his course (regulation 24(5) to (8)).

There are provisions for circumstances where, following payment of any amount of grant for dependants or loan, the Secretary of State makes a determination of that amount which either increases or decreases it (regulation 24(9) to (11)). Where it is increased, the additional amount is payable in instalments in accordance for which the student is eligible in respect of an academic year. Therefore, the first instalment is paid as soon as reasonably practicable and subsequent instalments with instalments already payable. Where it is decreased, the amount of the decrease is deducted from instalments remaining to be paid. Where it exceeds the amount of instalments remaining to be paid, the balance is, in the case of grant, subtracted from other grant for which the student is eligible in respect of the academic year. Where a balance remains (be it grant or loan), it is recovered in accordance with regulation 25.

Overpayments of grant for fees are recovered from the academic authority (regulation 25(1)). Overpayments of grant for living costs are recovered by subtracting them from any other grant for which the student is eligible in relation to the academic year, or if necessary any other academic year, or from any payment of loan, or by taking such other action as is available (regulation 25(2)).

Where an overpayment of loan has been made due to the eligible student failing to provide information promptly or providing inaccurate information, it may be subtracted from the amount of loan for which the student is eligible in respect of any other academic year, or from any grant for which the student is eligible in relation to the academic year, or if necessary any other academic year, or by taking such other action as is available (regulation 25(3) and (5)). Where an overpayment of the loan has not been so made, it is not recoverable but may be deducted from the amount of loan for which the student is eligible in relation to any other academic year (regulation 25(4)).

Loans shall bear interest at a rate which results in an annual percentage rate of charge equal to the percentage increase between the retail prices all items index published for March 1998 and that for March 1999, unless this exceeds the rate specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974, in which case they shall bear interest at that rate. Interest is calculated daily and compounded monthly (regulation 26).

Borrowers may repay their loans at any time without penalty, but shall not be required to repay any moneys they owe before 6th April 2000. The liability of a borrower will be cancelled if he dies; if he is not in breach of any obligation to repay any student loan and he reaches the age of 65, or if he receives a disability related benefit and the Secretary of State is satisfied that because of his disability he is permanently unfit for work (regulation 27).

Instalments of student loans paid or payable after the commencement of a student's bankruptcy, or in Scotland the sequestration of his estate, shall not form part of his estate, and accordingly cannot be claimed by his trustee (regulation 28).