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STATUTORY INSTRUMENTS

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**2002 No. 3200**

**The Education (Student Support) (No. 2) Regulations 2002**

**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 this attendance on the course—
  - (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(1) or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(2) 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(3);
- (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)

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(1) 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 85(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).

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

(3) S.I. 1992/580.

(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.

(5) A person in respect of whom the first academic year of the course begins on or after 1st September 2000 shall not, at any one time, be eligible for support for—

- (a) more than one designated course, or
- (b) a designated course and a designated part-time course.

### **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—

- (a) mentioned in Schedule 2;
- (b) a full-time course, sandwich course, or 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 maintained or assisted by recurrent grants out of public funds or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) 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 18 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.

(3) For the purposes of paragraph (2) where periods of full-time study and work experience alternate within any week of the course the days of full-time study shall be aggregated with any weeks of full-time study in determining the number of weeks of full-time study in each year.

(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 into an agreement with the student to provide the course.

(6) For the purpose 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(4).

(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, dentist, veterinary doctor, architect, landscape architect, landscape designer, landscape manager, town planner or 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 of 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) Subject to regulation 31, 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 him 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 academic year ... **in respect of** which it is submitted, but where—

- (a) the course becomes a designated course after the first day of that academic year, 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 that academic year, 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 that academic year 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 him 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) The Secretary of State may take such steps and make such inquiries as he considers necessary to determine whether the applicant is entitled to support.

(5) 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.

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(4) 1992 c. 13; section 65(3A) was inserted by section 27 of the Teaching and Higher Education Act 1998 (c. 30).

(6) 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.

(7) Without prejudice to the generality of paragraph (6), for the purpose of demonstrating his eligibility for a particular grant or loan, other than a grant under regulation 13, an eligible student shall complete and submit to the Secretary of State an application in such form as he may require not later than nine months after the first day of the academic year; and where 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.

(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.

### **Transfer 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) the eligible student starts to attend a course at another institution with the consent of the academic authority of that institution;
- (c) after commencing a course for the Certificate in Education, the eligible student is, on or before the completion of that course, admitted to a 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) 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) For the purposes of the duty of the Secretary of State to transfer eligibility where paragraph (1) (c) or (d) applies it shall be immaterial whether or not the two courses are provided by the same institution.

(4) 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 the following provisions of this paragraph and 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, but in respect of—

- (a) grants for living costs for which the student is eligible under Part IV and loans for living costs for which he is eligible under regulation 18; and
- (b) grants for fees where the student repeats part of his course and remains eligible **because the Secretary of State has not determined otherwise** under regulation 10(8),

he shall cease to be an eligible student at the end of the academic year in which he completes the course.

(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, every eligible student and every eligible part-time 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, every eligible student and every eligible part-time student shall forthwith inform the Secretary of State and provide him with particulars if any of the following occurs . . .—

- (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 the new course is a designated course, designated part-time course or neither;
- (c) he ceases to undertake his course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) he is absent from his course for more than 60 days due to illness, or for ... .. any period for any other reason;
- (e) the month for the start or completion of the course changes; or
- (f) his home or term time address or telephone number changes.

(3) If the Secretary of State is satisfied that an eligible student or eligible part-time 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.