
STATUTORY INSTRUMENTS

2006 No. 119

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

The Education (Student Support) Regulations 2006

Made - - - - 23rd January 2006
Laid before Parliament 7th February 2006
Coming into force - - 1st March 2006

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

**PART 1
GENERAL**

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the Education (Student Support) Regulations 2006 and shall come into force on 1st March 2006.

(2) Subject to paragraphs (3) and (4), these Regulations apply in relation to England(2).

(3) Regulation 72(1) also applies in relation to Wales.

(4) Regulation 72(2) extends to Northern Ireland.

Interpretation

2.—(1) In these Regulations—

“the 1962 Act” means the Education Act 1962(3);

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- (1) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7.
- (2) In relation to Wales, the functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 were transferred to the National Assembly for Wales under section 44 of the Higher Education Act 2004 except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22.
- (3) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provisions set out in Schedule 5 to the Education Act 1980 (c. 20). Section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4. Section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2. The entire Act was repealed by the Teaching and Higher Education

- “the 1998 Act” means the Teaching and Higher Education Act 1998;
- “the 2004 Act” means the Higher Education Act 2004(4);
- “the 1998 Regulations” means the Education (Student Support) Regulations 1998(5);
- “the 1999 Regulations” means the Education (Student Support) Regulations 1999(6);
- “the 2000 Regulations” means the Education (Student Support) Regulations 2000(7);
- “the 2001 Regulations” means the Education (Student Support) Regulations 2001(8);
- “the 2002 Regulations” means the Education (Student Support) Regulations 2002(9);
- “the 2003 Regulations” means the Education (Student Support) (No. 2) Regulations 2002(10) as amended only by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003(11) and the Education (Student Fees and Support) (Switzerland) Regulations 2003(12);
- “the 2004 Regulations” means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004(13), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004(14), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004(15), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004(16), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005(17), the Education (Student Support) (Amendment) Regulations 2005(18) and the Education (Student Support) (Amendment) (No. 2) Regulations 2005(19);
- “the 2005 Regulations” means the Education (Student Support) Regulations 2005(20) as amended by the Education (Student Support) (Amendment) Regulations 2005, the Education (Student Support) (Amendment) (No. 2) Regulations 2005 and the Adoption and Children (Miscellaneous Amendments) Regulations 2005(21);
- “academic authority” means, in relation to an institution, the governing body or other body having the functions of a governing body and includes a person acting with the authority of that body;
- “academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1st January and before 1st April, on or after 1st April and before 1st July, on or after 1st July and before 1st August or on or after 1st August and on or before 31st December, respectively;

Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I.1998/3237), article 3.

- (4) 2004 c. 8, to which there are amendments not relevant to these Regulations.
- (5) S.I. 1998/2003.
- (6) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.
- (7) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.
- (8) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.
- (9) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.
- (10) S.I. 2002/3200.
- (11) S.I. 2003/1065.
- (12) S.I. 2003/3280.
- (13) S.I. 2004/161.
- (14) S.I. 2004/1602.
- (15) S.I. 2004/2041.
- (16) S.I. 2004/2598.
- (17) S.I. 2005/5.
- (18) S.I. 2005/1341.
- (19) S.I. 2005/2084.
- (20) S.I. 2005/52.
- (21) S.I. 2005/3482.

“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;

“borrower” means a person to whom a loan has been made;

“contribution” means an eligible student’s contribution calculated pursuant to regulation 73 and Schedule 4;

“course for the initial training of teachers” includes such a course leading to a first degree unless otherwise indicated but excludes an employment-based teacher training scheme;

“current course” means the designated course in respect of which a person is applying for support;

“designated course” means a course designated by regulation 5 or by the Secretary of State under regulation 5;

“designated part-time course” means a course designated by regulation 85 or by the Secretary of State under regulation 85;

“designated postgraduate course” means a course designated by regulation 101 or by the Secretary of State under regulation 101;

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

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

“eligible part-time student” has the meaning given in regulation 84;

“eligible postgraduate student” has the meaning given in regulation 100;

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

“employment-based teacher training scheme” means—

- (a) a scheme established by the Secretary of State whereby a person may undertake initial teacher training in order to obtain qualified teacher status while being employed to teach at a school, city college, Academy, independent school or other institution except a pupil referral unit; or
- (b) a scheme established by the National Assembly for Wales whereby persons who are or who have been employed in a school or other educational institution except a pupil referral unit may become qualified teachers;

“end-on course” means—

- (a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time course mentioned in paragraph 2 or 3 of Schedule 2 for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;
- (b) a full-time honours degree course beginning on or after 1st September 2006 which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time foundation degree course and for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;

- (c) a course for the initial training of teachers beginning before 1st September 2006 the duration of which does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent) which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a first degree course for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;

“Erasmus year” means an academic year of a course during which a student is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(22) and his course is a course referred to in regulation 5(1)(d) and all the periods of study during the academic year are at an institution outside the United Kingdom;

“European Community” means the territory comprised by the Member States of the European Community as constituted from time to time;

“fee contribution loan” means a loan for fees made to an old system student pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

“fee loan” means a loan for fees made to a new system student pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

“fees” has the meaning given in section 41(1) of the 2004 Act;

“fee support” means a grant for fees pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act, a fee contribution loan or a fee loan;

“flexible postgraduate course for the initial training of teachers” means a graduate-entry or postgraduate-level course for the initial training of teachers, the length and pattern of which is determined by reference to the eligible student’s experience and training requirements and which has been approved by the Training and Development Agency for Schools(23);

“former Metropolitan Police District” means—

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

“gap year student” has the meaning given in paragraph (2);

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

(23) This body was originally established under section 1 of the Education Act 1994 (c. 30) as the Teacher Training Agency. By virtue of section 74 of the Education Act 2005 (c. 18), it continues in existence but is known instead as the Training and Development Agency for Schools.

“healthcare bursary” means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(24) or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(25);

“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;

“household income” has the meaning given in Schedule 4;

“Islands” means the Channel Islands and the Isle of Man;

“loan”, except where otherwise indicated, means a loan pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act, including the interest accrued on the loan and any penalties or charges incurred in connection with it;

“loan for living costs” means a loan for living costs pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

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

“new system student” means an eligible student who begins the current course on or after 1st September 2006 and who is not an old system student;

“old award” is an award within the meaning of the Education (Mandatory Awards) Regulations 2003(26);

“old system student” means an eligible student who—

- (a) began the current course before 1st September 2006 and who is continuing on that course after 31st August 2006;
- (b) is a gap year student in relation to the current course;
- (c) began the current course on or after 1st September 2006 where that course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of “end-on course” in this regulation) following on from—
 - (i) a course that he began before 1st September 2006; or
 - (ii) a course that he began before 1st September 2007 and in relation to which he was a gap year student; or
- (d) began the current course on or after 1st September 2006 having had his status as an eligible student transferred to that course as a result of one or more transfers of that status by the Secretary of State pursuant to regulations made by her under section 22 of the 1998 Act from a designated course in connection with which the Secretary of State determined him to be an eligible student and which he began—
 - (i) before 1st September 2006; or

(24) 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.

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

(26) S.I. 2003/1994, amended by S.I. 2004/1038, S.I. 2004/1792, S.I. 2005/2083 and S.I. 2005/3137.

(ii) before 1st September 2007 and in relation to which he was a gap year student;

“period of eligibility” has the meaning given respectively in regulation 6 in relation to an eligible student, in regulation 86 in relation to an eligible part-time student and in regulation 102 in relation to an eligible postgraduate student;

“periods of work experience” means—

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

“private institution” means an institution which is not publicly funded;

“public funds” means moneys provided by Parliament;

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

“qualified teacher” has the meaning given in section 132(1) of the Education Act 2002(27);

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

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

“refugee” means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(28) as extended by the Protocol thereto which entered into force on 4th October 1967(29);

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

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

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

“Scottish healthcare allowance” means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(30) granted in respect of a person on a course leading to a qualification in a healthcare profession other than as a medical doctor or dentist;

(27) 2002 c. 32.

(28) Cmnd. 9171.

(29) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

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

“specified designated course” has the meaning given in paragraph (7);

“statutory award” means any award bestowed, grant paid or other support provided by virtue of the 1998 Act or the 1962 Act, or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

“student loans legislation” means the Education (Student Loans) Act 1990(31), the Education (Student Loans) (Northern Ireland) Order 1990(32), the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998(33) and regulations made thereunder or the 1998 Act and regulations made thereunder;

“support” means financial support by way of grant or loan made by the Secretary of State pursuant to regulations made by her under section 22 of the 1998 Act;

“transitional award” means an award made under the Education (Mandatory Awards) Regulations 1998(34) other than an old award;

“type 1 teacher training student” means a new system student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which he is applying for support are in aggregate at least 6 weeks but less than 10 weeks; and

“type 2 teacher training student” means a new system student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which he is applying for support are in aggregate 10 weeks or more.

(2) In these Regulations, a person is a “gap year student” in relation to a course provided by or on behalf of an institution that was publicly funded as at 1st August 2005 if he meets the conditions in paragraph (3) or (5).

(3) The conditions are—

- (a) the person had on or before 1st August 2005 received an offer, whether conditional on obtaining specified qualifications or not, of a place on the current course or a similar course; and
- (b) the first academic year of the current course begins on or after 1st September 2006 but before 1st September 2007.

(4) In paragraph (3), a course (the “original course”) is similar to the current course if—

- (a) it appears to the governing body of the institution providing the current course that the subject-matter of the course is in whole or in part the same as the subject-matter of the original course; and
- (b) except where the original course is no longer being provided, the current course is provided by the institution which was to have provided the original course.

(5) The conditions are—

- (a) the person had received an offer of a place on a designated course (whether or not at the same institution as the current course) the first academic year of which begins before 1st September 2006;
- (b) he was unable to take up the offer because a specified qualification or grade was not awarded to him;
- (c) he appealed against the decision not to award him the qualification or grade;

(31) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.

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

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

(34) S.I. 1998/1166, amended by S.I. 1998/1972 and revoked with savings by S.I. 1999/1494.

- (d) the appeal was allowed after the last date on which he could have taken up the offer;
 - (e) as a result, he was offered a place on the current course; and
 - (f) the first academic year of the current course begins on or after 1st September 2006 but before 1st September 2007.
- (6) In these Regulations—
- (a) a course is a “sandwich course” if—
 - (i) it is not a course for the initial training of teachers;
 - (ii) it consists of alternate periods of full-time study in an institution and periods of work experience; and
 - (iii) taking the course as a whole, the student attends the periods of full-time study for an average of not less than 18 weeks in each year;
 - (b) in calculating the student’s attendance for the purposes of paragraph (a), the course is to be treated as beginning with the first period of full-time study and ending with the last such period; and
 - (c) for the purposes of paragraph (a), where periods of full-time study and work experience alternate within any week of the course, the days of full-time study are aggregated with each other and with any weeks of full-time study in determining the number of weeks of full-time study in each year.
- (7) In these Regulations, the “specified designated course” means the current course subject to paragraphs (8) and (9).
- (8) Where the student’s status as an eligible student has been transferred to the current course as a result of one or more transfers of that status by the Secretary of State from a course (the “initial course”) in connection with which the Secretary of State determined the student to be an eligible student pursuant to regulations made by her under section 22 of the 1998 Act, the specified designated course is the initial course.
- (9) Where the current course is an end-on course, the specified designated course is the course in relation to which the current course is an end-on course (the “preceding course”). Where the preceding course is itself an end-on course, the specified designated course is the course in relation to which the preceding course is an end-on course.

Revocation, savings and transitional provisions

- 3.—**(1) Subject to paragraphs (2) and (3), the following regulations are revoked on 1st September 2006—
- (a) the Education (Student Support) Regulations 2005;
 - (b) the Education (Student Support) (Amendment) Regulations 2005; and
 - (c) the Education (Student Support) (Amendment) (No. 2) Regulations 2005.
- (2) Paragraphs (2) to (4) of regulation 3 of the 2005 Regulations continue to apply.
- (3) The 2005 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1st September 2005 but before 1st September 2006.
- (4) Regulation 71 applies to loans with effect from 1st September 2006.
- (5) These Regulations apply in relation to the provision of support to students in relation to an academic year which begins on or after 1st September 2006 whether anything done under these Regulations is done before, on or after 1st September 2006.
- (6) Despite any other provision in these Regulations where—
- (a) a person attends a course in respect of which a transitional award was bestowed on him; or

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

he is an old system student for the purposes of Parts 4 and 5 in connection with the course, or in connection with any subsequent course to which the award (either bestowed or which would have been bestowed under the 1962 Act) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (7) applies he qualifies for support by way of loan for living costs under Part 6 only if he is an eligible student under these Regulations and if he satisfies the qualifying conditions for an old system student in Part 6.

(7) Despite any other provision in these Regulations, where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations he is an old system student for the purposes of Part 6 in connection with the course, or any subsequent designated course which (disregarding any intervening vacation) he begins immediately after ceasing that course, but unless paragraph (6) applies he qualifies for fee support under Chapters 3 and 4 of Part 4 and grants for living and other costs under Part 5 only if he is an eligible student under these Regulations and if he satisfies the relevant qualifying conditions for an old system student in Parts 4 and 5.

PART 2

ELIGIBILITY

Eligible students

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

(2) Subject to paragraph (3), a person is an eligible student in connection with a designated course if the Secretary of State has determined in connection with that course that the person falls within one of the categories set out in Part 2 of Schedule 1.

(3) A person is not an eligible student if—

- (a) an old award has been bestowed on him in respect of his attendance on the course;
- (b) he is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;
- (c) there has been bestowed on him or paid to him in connection with the course—
 - (i) a healthcare bursary the amount of which is not calculated by reference to his income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992⁽³⁵⁾;
- (d) he is in breach of any obligation to repay any loan;
- (e) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18; or
- (f) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.

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

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

- (5) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(e) only applies if the agreement was made—
- (a) before 25th September 1991; and
 - (b) with the concurrence of the borrower’s curator or at a time when he had no curator.
- (6) An eligible student in respect of whom the first academic year of the specified designated course begins on or after 1st September 2000 may not, at any one time, qualify for support for—
- (a) more than one designated course;
 - (b) a designated course and a designated part-time course;
 - (c) a designated course and a designated postgraduate course.
- (7) Despite paragraphs (2) and (3), a person is an eligible student for the purposes of these Regulations if he satisfies the conditions in paragraph (8), (9) or (10).
- (8) The conditions are—
- (a) the person qualified as an eligible student in connection with an earlier academic year of the current course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (b) the person was not ordinarily resident in Wales on the first day of the first academic year of the current course; and
 - (c) the person’s status as an eligible student has not terminated.
- (9) The conditions are—
- (a) the current course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of “end-on course” in regulation 2) that the person begins on or after 1st September 2006;
 - (b) the person qualified as an eligible student in connection with the course in relation to which the current course is an end-on course;
 - (c) the period of eligibility in respect of the course referred to in sub-paragraph (b) only ceased on the grounds that the student had completed the course; and
 - (d) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (b).
- (10) The conditions are—
- (a) the Secretary of State has previously determined that the person is—
 - (i) an eligible part-time student in connection with a designated part-time course; or
 - (ii) an eligible student in connection with a designated course other than the current course;
 - (b) the person’s status as an eligible part-time student or as an eligible student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
 - (d) the person’s status as an eligible student has not terminated.

Designated courses

5.—(1) Subject to paragraphs (2) and (3), a course is a designated course for the purposes of section 22(1) of the 1998 Act and regulation 4 if it is—

- (a) mentioned in Schedule 2;
- (b) one of the following—
 - (i) a full-time course;
 - (ii) a sandwich course; or
 - (iii) a part-time course for the initial training of teachers;
- (c) of at least one academic year's duration; and
- (d) wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

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

(3) A course that is taken as part of an employment-based teacher training scheme is not a designated course.

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

- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;
- (b) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
- (c) an institution is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992⁽³⁶⁾.

(5) A course to which this paragraph applies is considered to be a single course for a first degree or for an equivalent qualification even though—

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

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

(7) For the purposes of section 22 of the 1998 Act and regulation 4(1) the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

6.—(1) An eligible student retains his status as an eligible student in connection with a designated course until the status terminates in accordance with this regulation.

(2) The period for which an eligible student retains the status is the “period of eligibility”.

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

(3) Subject to the following paragraphs, the period of eligibility terminates at the end of the academic year in which the student completes the designated course.

(4) The period of eligibility terminates when the eligible student—

(a) withdraws from his designated course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert his status as an eligible student under regulation 7 or regulation 96; or

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

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

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

(a) terminate the period of eligibility;

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

(c) treat any support paid to the student as an overpayment which may be recovered under regulation 83.

(7) Where the period of eligibility terminates before the end of the academic year in which the student completes the designated course, the Secretary of State may, at any time, renew the period of eligibility for such period as she determines.

Transfer of status

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

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

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

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) on the recommendation of the academic authority the eligible student begins to attend another designated course at the institution;

(b) the eligible student begins to attend a designated 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 designated course for the degree of Bachelor of Education either at the same institution or at another institution;

(d) after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the eligible student is, on or before the completion of that course, admitted to a designated course for the honours degree of Bachelor of Education either at the same institution or at another institution; or

(e) after commencing a course for a first degree (other than an honours degree) the eligible student is, before the completion of that course, admitted to a designated course for an honours degree in the same subject or subjects at the institution.

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

(4) The Secretary of State may re-assess the amount of support payable after the transfer.

(5) An eligible student who transfers under paragraph (1) after the Secretary of State has assessed his support in connection with the academic year of the course from which he is transferring but before he completes that year may not, in connection with the academic year of the course to which he transfers, apply for another grant or loan of a kind that he has already applied for under these Regulations in connection with the academic year of the course from which he is transferring unless otherwise provided.

PART 3

APPLYING FOR SUPPORT AND PROVISION OF INFORMATION

Applications for support

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

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

(3) The Secretary of State must notify the applicant of whether he qualifies for support and, if he does qualify, the amount of support payable in respect of the academic year, if any.

Time limits

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

(2) The general rule does not apply where—

- (a) one of the events listed in regulation 14 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of nine months beginning with the day on which the relevant event occurred;
- (b) the applicant is making a separate application for a fee loan, a fee contribution loan or a loan for living costs or is applying for an additional amount of fee loan under regulation 20(4) or 20(10), an additional amount of fee contribution loan under regulation 31(5) or an additional amount of loan for living costs under regulation 68(3), in which case the application must reach the Secretary of State not later than one month before the end of the academic year in respect of which he is applying for support;
- (c) the applicant is applying to borrow an additional amount of fee contribution loan under regulation 31(3) or an additional amount of loan for living costs under regulation 68(1), in which case the application must reach the Secretary of State not later than one month before the end of the academic year to which the application relates or within a period of one month beginning with the day on which the applicant receives notice of the increased maximum amount, whichever is the later;
- (d) the applicant is applying for the disabled students' allowance, in which case the application must reach the Secretary of State as soon as is reasonably practicable; or
- (e) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as she specifies.

Information

10. Schedule 3 deals with the provision of information.

PART 4

FEE SUPPORT

CHAPTER 1

TYPES OF FEE SUPPORT AVAILABLE

New system students

11.—(1) A new system student qualifies for a fee loan in respect of the fees payable by him in connection with his attendance on a designated course in accordance with Chapter 2 of this Part.

(2) To receive a fee loan, a new system student must enter into a contract with the Secretary of State.

Old system students

12.—(1) An old system student qualifies for a grant for fees in respect of the fees payable by him in connection with his attendance on a designated course in accordance with Chapter 3 of this Part.

(2) An old system student qualifies for a fee contribution loan in respect of the fees payable by him in connection with his attendance on a designated course in accordance with Chapter 4 of this Part.

(3) To receive a fee contribution loan, an old system student must enter into a contract with the Secretary of State.

Students becoming eligible in the course of an academic year

13. Where one of the events listed in regulation 14 occurs in the course of an academic year—

- (a) a student may qualify for fee support in accordance with this Part in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
- (b) fee support is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

Events

14. The events are—

- (a) the student's course becomes a designated course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;
- (c) the state of which the student is a national accedes to the European Community;
- (d) the student acquires the right of permanent residence as defined in Part 1 of Schedule 1;
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (f) the student becomes the child of a Swiss national.

Disabled students

15. A disabled student who is undertaking a designated course in the United Kingdom but who is not in attendance because he is unable to attend for a reason which relates to his disability is treated as if he were in attendance on the designated course for the purpose of qualifying for fee support.

CHAPTER 2

FEE LOANS FOR NEW SYSTEM STUDENTS

Availability of fee loans to new system students - general

16.—(1) A new system student does not qualify for fee support in respect of a designated course if—

- (a) he has an honours degree from an institution in the United Kingdom and the exemption in regulation 34(1) or 34(2) does not apply; or
- (b) the designated course is a flexible postgraduate course for the initial training of teachers.

(2) A new system student does not qualify for a fee loan in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(3) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the “standard entitlement”.

(4) The standard entitlement is calculated in accordance with regulation 17, 18 or 19.

(5) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must allocate a fee loan from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a fee loan has been allocated to each standard academic year of the course.

(6) A new system student qualifies for a fee loan in respect of a standard academic year of the designated course if the Secretary of State allocates a fee loan to that year when assessing the application for support for that year.

(7) In addition to the standard entitlement, a new system student who falls within regulation 18 qualifies for a fee loan in respect of the first academic year that he takes of the designated course that is not a bursary year or an Erasmus year if he failed to complete the most recent previous course because of compelling personal reasons.

(8) Where a new system student qualifies for a fee loan under paragraph (7), the Secretary of State must not allocate a fee loan under paragraph (5) to the first academic year that the student takes of the designated course that is not a bursary year or an Erasmus year.

(9) In addition to the standard entitlement, if the Secretary of State determines that the student is repeating an academic year of the designated course because of compelling personal reasons, a new system student qualifies for a fee loan in respect of the year of repeat study provided that the academic year that the student is repeating was a qualifying year of study and the year of repeat study is not a bursary year.

(10) A new system student qualifies for a fee loan in respect of an academic year of a designated course that is a year of repeat study which the student is taking other than for compelling personal reasons if—

- (a) the academic year which he is repeating was a qualifying year of study;
- (b) the academic year of repeat study is not a bursary year; and
- (c) when the academic year of repeat study is added to the number of any other academic years of repeat study that the student has already taken on the current course other than for compelling personal reasons, it does not exceed the number of additional years of support.

(11) In this regulation, the “number of additional years of support” is the number of years which make up the standard entitlement less the number of standard academic years (plus one where the student qualifies for a fee loan under paragraph (7)).

(12) The amount of the fee loan in respect of an academic year is determined in accordance with regulation 20 and may be nil.

Standard entitlement of new system students who have not studied on a previous course

17. The standard entitlement of a new system student who has not studied on a previous course is calculated as follows—

$$OD + 1$$

where

OD is the number of academic years that make up the ordinary duration of the course.

Standard entitlement of new system students who have studied on a previous course

18. The standard entitlement of a new system student who has studied on a previous course and who does not fall within regulation 19 is calculated as follows—

$$(OD + 1) - PC$$

where

OD is the number of academic years that make up the ordinary duration of the course

PC is the number of academic years that the student has spent on previous courses.

Standard entitlement of new system students on end-on courses and certain degree courses

19.—(1) This regulation applies to—

- (a) a new system student who is on an end-on course of the kind described in paragraph (a) or (b) of the definition of “end-on course” in regulation 2;
- (b) a new system student who has—
 - (i) completed a full-time course mentioned in paragraph 2 or 3 of Schedule 2;
 - (ii) is on a full-time first degree course (other than a first degree course for the initial training of teachers) that he did not begin immediately after the course referred to in paragraph (i); and
 - (iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the current course;
- (c) a new system student who has—
 - (i) completed a full-time foundation degree course;
 - (ii) is on a full-time honours degree course that he did not begin immediately after the course referred to in paragraph (i); and
 - (iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the current course.

(2) Regulations 17 and 18 do not apply to students to whom this regulation applies.

(3) The standard entitlement of a student to whom this regulation applies is calculated as follows—

$$(D + X) - PC$$

where

D is the greater of 3 and the number of academic years that make up the ordinary duration of the course

X is 1 where the ordinary duration of the preliminary course was less than three years and 2 where the ordinary duration of the preliminary course was three years

PrC is the number of academic years that the student spent on the preliminary course excluding any years of repeat study for compelling personal reasons.

Amount of the fee loan

20.—(1) Unless one of the cases set out in paragraph (3) applies, the amount of a fee loan in respect of an academic year of a designated course must not exceed the lesser of—

- (a) £3,000; and
- (b) the fees payable by the student in connection with that year.

(2) In the cases set out in paragraph (3), the amount of a fee loan in respect of an academic year of a designated course must not exceed the lesser of—

- (a) £1,500; and
- (b) the fees payable by the student in connection with that year.

(3) The cases are—

- (a) the final academic year of a designated course where that academic year is normally required to be completed after less than 15 weeks' attendance;
- (b) in respect of a sandwich course, an academic year—
 - (i) during which any periods of full-time study are in aggregate less than 10 weeks; or
 - (ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full-time study at the institution (disregarding intervening vacations) exceeds 30 weeks;
- (c) in respect of a course for the initial training of teachers, an academic year during which any periods of full-time study are in aggregate less than 10 weeks;
- (d) in respect of a course provided in conjunction with an overseas institution, an academic year—
 - (i) during which any periods of full-time study at the institution in the United Kingdom are in aggregate less than 10 weeks; or
 - (ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full-time study at the institution in the United Kingdom (disregarding intervening vacations) exceeds 30 weeks;
- (e) an academic year of a course provided by the British Institute in Paris where the course began before 1st September 2001.

(4) If a student's status as an eligible student is transferred from one designated course to another under these Regulations and the circumstances in paragraph (5) apply, the student may apply to the Secretary of State to borrow an additional amount by way of a fee loan in respect of the academic year of the course to which he transfers.

(5) The circumstances are—

- (a) the fees payable in respect of the academic year of the course to which the new system student transfers exceed the fees payable in respect of the academic year of the course from which the student is transferring; and

- (b) the academic year of the course to which the new system student transfers does not begin on a later date than the academic year of the course from which he is transferring.
- (6) If a student's status as an eligible student is transferred from one designated course to another under these Regulations and the circumstances in paragraph (7) apply, the student may apply to the Secretary of State for another fee loan in respect of the academic year of the course to which he transfers.
- (7) The circumstances are that the academic year of the course to which the new system student transfers begins on a later date than the academic year of the course from which he is transferring.
- (8) Where the circumstances in paragraph (5) apply, the maximum additional amount that the new system student may borrow in respect of the academic year to which he transfers provided that he qualifies for a fee loan in respect of that year is determined by deducting the amount of any fee loan he has taken out under these Regulations in respect of the academic year from which he is transferring from the lesser of—
- (a) £3,000 or, where one of the cases set out in paragraph (3) applies, £1,500; and
 - (b) the fees payable by the student in respect of the academic year to which he is transferring.
- (9) Where the circumstances in paragraph (7) apply, the maximum amount of fee loan that a new system student may borrow in respect of the academic year to which he transfers provided that he qualifies for a fee loan in respect of that year is the lesser of—
- (a) £3,000 or, where one of the cases set out in paragraph (3) applies, £1,500; and
 - (b) the fees payable by the student in connection with that year.
- (10) Where a new system student has applied for a fee loan of less than the maximum amount available in relation to an academic year, he may apply to borrow an additional amount which when added to the amount already applied for does not exceed the relevant maximum applicable in his case.

CHAPTER 3

GRANTS FOR FEES FOR OLD SYSTEM STUDENTS

Continuing students

- 21.**—(1) This regulation applies where an old system student (a “continuing student”) began a designated course before 1st September 2006 and is continuing on that course after 31st August 2006.
- (2) A continuing student does not qualify for a grant for fees in respect of any academic year of the course that begins on or after 1st September 2006 where in the course of assessing an application for support in respect of an academic year of the designated course that began before 1st September 2006 the Secretary of State determined in accordance with regulations made by her under section 22 of the 1998 Act that the student did not qualify for fee support in respect of the designated course.
- (3) A continuing student does not qualify for a grant for fees in respect of a designated course if the designated course is a flexible postgraduate course for the initial training of teachers.
- (4) A continuing student does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.
- (5) When assessing an application for support in respect of an academic year of the designated course that begins after 31st August 2006, the Secretary of State must determine the “standard entitlement”.
- (6) The standard entitlement is calculated as follows—

$$(SAY - X) + 1$$

where

SAY is the number of standard academic years of the designated course that begin after 31st August 2006

X is the number of academic years of the designated course that begin after 31st August 2006 in respect of which the Secretary of State determined in accordance with regulations made by her under section 22 of the 1998 Act that the student did not qualify for a grant for fees in the course of assessing an application for support in respect of an academic year of the designated course that began before 1st September 2006.

(7) When assessing an application for support in respect of an academic year of the designated course that begins after 31st August 2006, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(8) A continuing student qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(9) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 27, 28 or 29 and may be nil.

Transferring students

22.—(1) Subject to paragraph (2), this regulation applies where an old system student (a “transferring student”) begins a designated course on or after 1st September 2006 having had his status as an eligible student transferred to the course as a result of one or more transfers of that status by the Secretary of State pursuant to regulations made by her under section 22 of the 1998 Act from a designated course that he began before 1st September 2006.

(2) This regulation does not apply where an eligible student has transferred from a course in relation to which he was a gap year student to another designated course in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act.

(3) Where in the course of assessing an application for support in respect of an academic year of the relevant course, the Secretary of State determined in accordance with regulations made by her under section 22 of the 1998 Act that the student did not qualify for fee support in respect of that course, a transferring student does not qualify for a grant for fees in respect of any academic year of the current course.

(4) In this regulation, the “relevant course” is the designated course that the student was taking as at 31st August 2006.

(5) A transferring student does not qualify for a grant for fees in respect of a designated course if the designated course is a flexible postgraduate course for the initial training of teachers.

(6) A transferring student does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(7) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the “standard entitlement”.

(8) The standard entitlement is calculated as follows where the course begins before 1st September 2007 and is not a course listed in paragraph (11)—

$$(RAY - V) + 1$$

where

RAY is the number of standard academic years of the relevant course that remain after 31st August 2006

X is the number of academic years of the relevant course that remain after 31st August 2006 in respect of which the Secretary of State determined in accordance with regulations made by her under section 22 of the 1998 Act that the student did not qualify for a grant for fees in the course of assessing an application for support in respect of an academic year of the relevant course where that year began before 1st September 2006.

(9) The standard entitlement is calculated as follows where the course begins on or after 1st September 2007 and is not a course listed in paragraph (11)—

$$(RAY - X - SS) + 1$$

where

RAY is the number of standard academic years of the relevant course that remain after 31st August 2006

X is the number of academic years of the relevant course that remain after 31st August 2006 in respect of which the Secretary of State determined in accordance with regulations made by her under section 22 of the 1998 Act that the student did not qualify for a grant for fees in the course of assessing an application for support in respect of an academic year of the relevant course where that year began before 1st September 2006

SS is the number of academic years of study that the student has taken from and including 1st September 2006 in respect of which he qualified for fee support (excluding any years of repeat study for compelling personal reasons) or which were bursary years or Erasmus years.

(10) The standard entitlement is calculated as follows where the course is one listed in paragraph (11)—

$$OD + 1$$

where

OD is the number of academic years that make up the ordinary duration of the designated course.

(11) The courses are—

- (a) a course for the degree of Bachelor of Education where the student has transferred to that course from a course for the Certificate in Education on or before the completion of the latter course;
- (b) a course for the honours degree of Bachelor of Education where the student has transferred to that course from a course for the degree (other than an honours degree) of Bachelor of Education on or before the completion of the latter course.

(12) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(13) A transferring student qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(14) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 27, 28 or 29 and may be nil.

End-on courses

23.—(1) An old system student who is on an end-on course of the kind described in paragraph (a) of the definition of “end-on course” in regulation 2 that he began before 1st September 2006 qualifies for a grant for fees in respect of that course in accordance with regulation 21.

(2) An old system student who is on an end-on course of the kind described in paragraph (c) of the definition of “end-on course” in regulation 2 qualifies for a grant for fees in respect of that course in accordance with regulation 21.

(3) Paragraphs (4) to (10) apply to—

(a) an old system student in respect of an end-on course of the kind described in paragraph (a) of the definition of “end-on course” in regulation 2 that he begins on or after 1st September 2006;

(b) an old system student in respect of an end-on course of the kind described in paragraph (b) of the definition of “end-on course” in regulation 2.

(4) An old system student to whom this paragraph applies does not qualify for fee support in respect of a course to which this paragraph applies if—

(a) he has an honours degree from an institution in the United Kingdom and the exemption in regulation 34(1) or 34(2) does not apply; or

(b) the designated course is a flexible postgraduate course for the initial training of teachers.

(5) An old system student to whom this paragraph applies does not qualify for a grant for fees in respect of an academic year of a course to which this paragraph applies that is a bursary year or an Erasmus year.

(6) When assessing an application for support in respect of an academic year of a course to which this paragraph applies, the Secretary of State must determine the “standard entitlement”.

(7) The standard entitlement is calculated as follows—

$$(D - X) PrC$$

where

D is the greater of 3 and the number of academic years that make up the ordinary duration of the course

X is 1 where the ordinary duration of the preliminary course was less than three years and 2 where the ordinary duration of the preliminary course was three years

PrC is the number of academic years that the student spent on the preliminary course excluding any years of repeat study for compelling personal reasons.

(8) When assessing an application for support in respect of an academic year of a course to which this paragraph applies, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(9) An old system student to whom this paragraph applies qualifies for a grant for fees in respect of a standard academic year of a course to which this paragraph applies if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(10) The amount of the grant for fees in respect of an academic year of a course to which this paragraph applies is determined in accordance with regulation 27, 28 or 29 and may be nil.

Gap year students who have not studied on a previous course

24.—(1) This regulation applies to an old system student who is a gap year student who has not studied on a previous course.

- (2) A gap year student does not qualify for fee support in respect of a designated course if—
- he has an honours degree from an institution in the United Kingdom and the exemption in regulation 34(1) or 34(2) does not apply; or
 - the designated course is a flexible postgraduate course for the initial training of teachers.

(3) A gap year student does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(4) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the “standard entitlement”.

- (5) The standard entitlement is calculated as follows—

$$OD - 1$$

where

OD is the number of academic years that make up the ordinary duration of the course.

(6) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(7) A gap year student qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(8) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 27 or 28 and may be nil.

Gap year students who have studied on a previous course

25.—(1) This regulation applies where—

- an old system student is a gap year student who has studied on a previous course;
- an old system student has transferred from a course in relation to which he was a gap year student to another designated course in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act.

(2) An old system student to whom this regulation applies does not qualify for fee support in respect of a designated course if—

- he has an honours degree from an institution in the United Kingdom and the exemption in regulation 34(1) or 34(2) does not apply; or
- the designated course is a flexible postgraduate course for the initial training of teachers.

(3) An old system student to whom this regulation applies does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(4) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the “standard entitlement”.

- (5) The standard entitlement is calculated as follows—

$$(OD + 1) - PC$$

where

OD is the number of academic years that make up the ordinary duration of the course

PC is the number of academic years that the student has spent on previous courses.

(6) When assessing an application for support in connection with an academic year of a designated course, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(7) An old system student to whom this regulation applies qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(8) In addition to the standard entitlement, an old system student to whom this regulation applies qualifies for a grant for fees in respect of the first academic year that he takes of the designated course that is not a bursary year or an Erasmus year if he failed to complete the most recent previous course because of compelling personal reasons.

(9) Where an old system student to whom this regulation applies qualifies for a grant for fees under paragraph (8), the Secretary of State must not allocate a grant for fees under paragraph (6) to the first academic year that the student takes of the designated course that is not a bursary year or an Erasmus year.

(10) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 27 or 28 where the eligible student falls within paragraph (1)(a) and in accordance with regulation 27, 28 or 29 where the eligible student falls within paragraph (1)(b) and in either case the amount may be nil.

Availability of the grant for fees to old system students for years of repeat study

26.—(1) In addition to the standard entitlement, if the Secretary of State determines that the student is repeating an academic year of the designated course because of compelling personal reasons, an old system student qualifies for a grant for fees in respect of the year of repeat study provided that the academic year that the student is repeating was a qualifying year of study and the year of repeat study is not a bursary year.

(2) An old system student qualifies for a grant for fees in respect of an academic year of a designated course that is a year of repeat study which the student is taking other than for compelling personal reasons if—

- (a) the academic year which he is repeating was a qualifying year of study;
- (b) the academic year of repeat study is not a bursary year; and
- (c) when the academic year of repeat study is added to the number of any other academic years of repeat study that the student has already taken on the current course other than for compelling personal reasons, it does not exceed the number of additional years of support.

(3) In this regulation, the “number of additional years of support” is the number of years which make up the standard entitlement less the number of standard academic years (plus one where the student qualifies for a grant for fees under regulation 25(8)).

Amount of the grant for fees for a course at a publicly-funded institution

27.—(1) Unless one of the cases set out in regulation 20(3) applies, the basic amount of the grant for fees in respect of an academic year of a designated course at a publicly-funded institution is the lesser of—

- (a) £1,200; and

(b) the fees payable by the student in connection with that year.

(2) In the cases set out in regulation 20(3), the basic amount of the grant for fees in respect of an academic year is the lesser of—

(a) £600; and

(b) the fees payable by the student in connection with that year.

(3) Where a contribution exceeding nil is calculated under Schedule 4, a deduction will be made from the basic amount of the grant for fees determined under paragraph (1) or (2) in accordance with regulation 75.

(4) Paragraphs (1) to (3) do not apply to designated courses at Heythrop College.

(5) In the case of a designated course at Heythrop College, the amount of the grant for fees in respect of an academic year is £2,145.

Amount of the grant for fees for a course that is provided at a private institution on behalf of a publicly-funded institution

28.—(1) The basic amount of the grant for fees in respect of an academic year at a private institution is the lesser of £1,200 and the fees payable by the student in connection with that year if—

(a) the designated course began on or after 1st September 2001;

(b) the designated course is provided on behalf of a publicly-funded institution; and

(c) none of the circumstances in regulation 20(3) applies.

(2) The amount of the grant for fees in respect of an academic year at a private institution is the lesser of £600 and the fees payable by the student in connection with that year if—

(a) the designated course began on or after 1st September 2001;

(b) the designated course is provided on behalf of a publicly-funded institution; and

(c) one or more of the circumstances in regulation 20(3) applies.

(3) Where a contribution exceeding nil is calculated under Schedule 4, a deduction will be made from the basic amount of the grant for fees determined under paragraph (1) or (2) in accordance with regulation 75.

Amount of the grant for fees for a course at a private institution

29.—(1) Subject to paragraphs (2) and (3), the amount of the grant for fees in respect of an academic year of a designated course at a private institution is the lesser of—

(a) £1,125; and

(b) the fees payable by the student in connection with that year.

(2) In the case of a designated course at the University of Buckingham, the amount of the grant for fees in respect of an academic year is £2,840.

(3) In the case of a designated course at the Guildhall School of Music, the amount of the grant for fees in respect of an academic year is £4,355.

CHAPTER 4

FEE CONTRIBUTION LOANS FOR OLD SYSTEM STUDENTS

Availability of fee contribution loans to old system students

30. An old system student qualifies for a fee contribution loan in respect of an academic year of a designated course if—

- (a) he qualifies for a grant for fees in respect of that year or would have qualified if he had applied for the grant (even if the amount is or would have been nil); and
- (b) the designated course is provided by or on behalf of an institution that was publicly funded as at 1st August 2005.

Amount of the fee contribution loan

31.—(1) Where an old system student applies for a grant for fees and a fee contribution loan, the amount of the fee contribution loan in respect of an academic year of the designated course is the amount for which the student applies not exceeding the difference between the basic amount of the grant determined under regulation 27 or 28 and the amount of the grant that is payable after the application of the contribution in accordance with regulation 75.

(2) Where the only fee support for which an old system student applies is a fee contribution loan, the maximum amount for which the student may apply in respect of an academic year is the lesser of—

- (a) £1,200 or, if any of the cases set out in regulation 20(3) apply, £600; and
- (b) the fees payable by the student in connection with the academic year.

(3) An old system student may apply to borrow an additional amount of fee contribution loan where—

- (a) the Secretary of State determines that the maximum amount of fee contribution loan 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 old system student—
 - (i) failing to provide information promptly which might affect his ability to qualify for a grant for fees or fee contribution loan or the amount of grant for fees or fee contribution loan for which he qualifies; or
 - (ii) providing information which is inaccurate in any material particular.

(4) The additional amount under paragraph (3) is an amount which when added to the amount already applied for does not exceed the increased maximum.

(5) Where an old system student has applied for a fee contribution loan of less than the maximum amount to which he is entitled, he may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in his case.

CHAPTER 5

INTERPRETATION OF PART 4

Previous course

32.—(1) Subject to the exceptions in paragraphs (3), (4) and (5), a “previous course” is any full-time higher education course or any part-time course for the initial training of teachers which the student began to attend before the current course and which meets one or both of the conditions in paragraph (2).

(2) The conditions are—

- (a) the course is provided by an institution in the United Kingdom which was publicly funded for some or all of the academic years during which the student took the course; or

- (b) any scholarship, exhibition, bursary, grant, allowance or award of any description which was paid in respect of the student's attendance on the course to defray fees was from public funds or funds attributable to public funds.
- (3) A course which would otherwise be a previous course will not be treated as such if—
- (a) the current course is a course for the initial training of teachers;
 - (b) the duration of the current course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and
 - (c) the student is not a qualified teacher.
- (4) A course for the Certificate in Education which would otherwise be a previous course will not be treated as such if—
- (a) the current course is a course for the degree of Bachelor of Education;
 - (b) the student transferred to the current course from the course for the Certificate in Education before the completion of that course or began the current course on completion of the course for the Certificate in Education.
- (5) A course for the degree (other than an honours degree) of Bachelor of Education will not be treated as a previous course if—
- (a) the current course is a course for the honours degree of Bachelor of Education;
 - (b) the student transferred to the current course from the course for the degree (other than an honours degree) of Bachelor of Education before the completion of that course or began the current course on completion of the course for the degree (other than an honours degree) of Bachelor of Education.
- (6) Subject to paragraphs (7), (8) and (9), for the purpose of determining *PC* in the formulae in regulations 18 and 25—
- (a) each academic year that the student completed on a previous course is counted; and
 - (b) an academic year of a previous course that the student began or ceased to attend part of the way through the year is counted as one academic year on a previous course.
- (7) For the purpose of determining *PC* in the formulae in regulations 18 and 25, an academic year of a previous course is not to be counted as a year spent on a previous course if—
- (a) the student did not qualify for fee support for that year other than because the academic year was a bursary year or an Erasmus year; and
 - (b) the student qualified for fee support for some but not all of the academic years of that previous course.
- (8) For the purpose of determining *PC* in the formulae in regulations 18 and 25, an academic year of a previous course is not to be counted as a year spent on a previous course if it was a year of repeat study that the student was taking for compelling personal reasons or a year in relation to which the student qualified for fee support because he had failed to complete a previous course for compelling personal reasons.
- (9) For the purpose of determining *PC* in the formulae in regulations 18 and 25, where a student transfers from an academic year of one designated course to an academic year of another designated course before the Secretary of State considers that he has completed the year from which he is transferring, the time spent by the student during the academic year in which the transfer takes place on the course from which he is transferring is not counted as a year spent on a previous course.
- (10) A student who undertook a previous course but was not in attendance because he was unable to attend for a reason which related to his disability is only treated as if he were in attendance on the previous course in respect of periods of study beginning on or after 1st September 2006.

Bursary year, ordinary duration, preliminary course, qualifying year of study and standard academic year

33.—(1) A “bursary year” is an academic year of a course—

- (a) in relation to which the student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to his income; or
- (b) in relation to which the student is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to his income.

(2) The “ordinary duration” of a designated course is the number of academic years that a standard student would take to complete the course excluding any academic years of the designated course that are bursary years or Erasmus years.

(3) A “standard student” is a student who is to be taken—

- (a) to have begun the designated course on the same date as the eligible student in question;
- (b) not to be excused any part of the course;
- (c) not to repeat any part of the course; and
- (d) not to be absent from the course other than during vacations.

(4) A “preliminary course” is a course mentioned in paragraph 2 or 3 of Schedule 2 that is taken before a full-time degree course (other than a first degree course for the initial training of teachers) or a foundation degree course that is taken before a full-time honours degree course, as the case may be.

(5) A “qualifying year of study” is an academic year of a course—

- (a) in respect of which the student qualified for fee support (even if the amount was nil);
- (b) that was a bursary year; or
- (c) in respect of which the student would have qualified for fee support (even if the amount would have been nil) if he had been an eligible student or the current course had been designated at the beginning of that year.

(6) A “standard academic year” is an academic year of a designated course (other than an academic year that is a bursary year or an Erasmus year) that would be taken (in whole or in part) by a person who does not repeat any part of the course as from 1st September 2006 and who enters the course at the same point as the eligible student.

Miscellaneous

34.—(1) An eligible student is not prevented from qualifying for fee support under this Part by virtue of having an honours degree from an institution in the United Kingdom if—

- (a) the current course is a course for the initial training of teachers;
- (b) the duration of the current course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and
- (c) the student is not a qualified teacher.

(2) Where the current course is considered to be a single course because of regulations 5(5) and 5(6) and it leads to an honours degree from an institution in the United Kingdom being conferred on the eligible student before the final degree or equivalent qualification, the eligible student is not prevented from qualifying for fee support under this Part in respect of any part of the single course by virtue of having that honours degree.

(3) For the purposes of calculating the amount of fee support, an institution that provides courses designated by regulation 4 of the Education (Student Support) (Dance and Drama) Regulations

1999(37) is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(38).

(4) Where an institution allows an eligible student to study the content of one standard academic year of the designated course over two or more academic years, for the purpose of determining whether the student qualifies for fee support for those years, the last of such years of study is to be treated as a standard academic year and the preceding years of that kind are to be treated as years of repeat study other than for compelling personal reasons.

PART 5

GRANTS FOR LIVING AND OTHER COSTS

CHAPTER 1

TYPES OF GRANTS AVAILABLE

New system students

35. The following grants are available to a new system student in connection with a designated course if he meets the relevant qualifying conditions in this Part—

- (a) disabled students' allowance;
- (b) grant for dependants;
- (c) grant for travel;
- (d) maintenance grant or special support grant.

Old system students

36. The following grants are available to an old system student in connection with a designated course if he meets the relevant qualifying conditions in this Part—

- (a) disabled students' allowance;
- (b) grant for dependants;
- (c) grant for travel;
- (d) higher education grant.

CHAPTER 2

GENERAL PROVISIONS

General qualifying conditions for grants for living and other costs

37.—(1) An eligible student qualifies for a grant under this Part provided that—

- (a) he is not excluded from qualification by any of the following paragraphs; and
- (b) he satisfies the qualifying conditions for the particular grant for which he is applying.

(2) An eligible student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.

(37) S.I. 1999/2263, amended by S.I. 2001/2893.

(38) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(3) An eligible student does not qualify for a grant under this Part in respect of any academic year—

- (a) during which he is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to his income;
- (b) during which he is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to his income; or
- (c) of a course for the initial training of teachers during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks.

(4) Paragraph (3)(c) does not apply for the purposes of the disabled students' allowance.

(5) An eligible student does not qualify for a grant for living and other costs under this Part in respect of any academic year of a sandwich course where the periods of full-time study are in aggregate less than 10 weeks unless the periods of work experience constitute unpaid service.

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

- (a) unpaid service in a hospital or in a public health service laboratory or with a primary care trust in the United Kingdom;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of its functions relating to the care of children and young persons, health or welfare or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;
- (c) unpaid service in the prison or probation and aftercare service in the United Kingdom;
- (d) unpaid research in an institution in the United Kingdom or, in the case of a student attending an overseas institution as part of his course, in an overseas institution; or
- (e) unpaid service with—
 - (i) a Health Authority or a Strategic Health Authority established pursuant to section 8 of the National Health Service Act 1977⁽³⁹⁾, a Special Health Authority established pursuant to section 11 of that Act⁽⁴⁰⁾ or a Local Health Board established pursuant to section 16BA of that Act⁽⁴¹⁾;
 - (ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978⁽⁴²⁾; or
 - (iii) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁴³⁾.

(7) Where one of the events listed in paragraph (8) occurs in the course of an academic year, a student may qualify for a particular grant in accordance with this Part in respect of all or part of that academic year but he does not qualify for a grant for living and other costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(8) The events are—

- (a) the student’s course becomes a designated course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;

⁽³⁹⁾ 1977 c. 49; section 8 was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 1(2).

⁽⁴⁰⁾ Section 11 was amended by the Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 2 and the Health Act 1999 (c. 8), Schedule 4, paragraph 6.

⁽⁴¹⁾ Section 16BA was inserted by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 6(1).

⁽⁴²⁾ 1978 c. 29.

⁽⁴³⁾ S.I. 1972/1265 (N.I. 14).

- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
 - (d) the student acquires the right of permanent residence as defined in Part 1 of Schedule 1;
 - (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
 - (f) the student becomes the child of a Swiss national.
- (9) A disabled student who is undertaking a designated course in the United Kingdom but who is not in attendance because he is unable to attend for a reason relating to his disability is treated as if he were in attendance on the designated course for the purpose of qualifying for the following grants—
- (a) grant for dependants;
 - (b) maintenance grant or special support grant;
 - (c) higher education grant.

CHAPTER 3

DISABLED STUDENTS' ALLOWANCES

Qualifying conditions for the disabled students' allowance

38.—(1) An eligible student qualifies in accordance with this regulation for a grant to assist with the additional expenditure which the Secretary of State is satisfied he is obliged to incur by reason of a disability to which he is subject in respect of his undertaking a designated course (the “disabled students' allowance”).

(2) An eligible student does not qualify for a disabled students' allowance under this regulation unless the Secretary of State considers that he is undertaking the course in the United Kingdom.

Amount of the disabled students' allowance

39.—(1) Subject to the following paragraphs, the amount of the disabled students' allowance is the amount that the Secretary of State considers appropriate in accordance with the student's circumstances.

(2) Except where paragraph (4) applies, the amount of the disabled students' allowance must not exceed—

- (a) £12,135 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £4,795 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
- (c) the additional expenditure incurred—
 - (i) within the United Kingdom for the purpose of attending the institution;
 - (ii) within or outside the United Kingdom for the purpose of attending, as a part of his course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
- (d) £1,605 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

(3) Where the eligible student has received payments to assist with expenditure on major items of specialist equipment in connection with the course by virtue of holding a transitional award, the maximum amount of grant under paragraph (2)(b) is reduced by the amount of those payments.

(4) The maximum amount under paragraphs (2)(a) and (2)(d) is £9,105 and £1,200, respectively where—

- (a) an eligible student undertakes a course for the initial training of teachers; and
- (b) in any academic year of that course, the periods of full-time study and full-time teaching practice are in aggregate less than 6 weeks.

CHAPTER 4

GRANTS FOR DEPENDANTS

General

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

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

(2) The qualifying conditions for each element and the amounts payable are set out in regulations 41 to 44.

Adult dependants' grant

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

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

- (a) the eligible student's partner; or
- (b) an adult dependant of the eligible student whose net income does not exceed £3,530.

(3) The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 44, the basic amount being—

- (a) £2,455; or
- (b) where the person in respect of whom the eligible student is applying for adult dependants' grant is ordinarily resident outside the United Kingdom, such amount not exceeding £2,455 as the Secretary of State considers reasonable in the circumstances.

Childcare grant

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

(2) Subject to paragraph (3), an eligible student qualifies for a childcare grant in respect of an academic year where childcare is provided by an approved or registered childcare provider if—

- (a) the child is under the age of 15 immediately before the beginning of the academic year; or
- (b) the child has special educational needs within the meaning of section 312 of the Education Act 1996⁽⁴⁴⁾ and is under the age of 17 immediately before the beginning of the academic year.

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

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

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

- (a) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £148.75 per week; or
- (b) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £255 per week

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

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

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

(6) In this regulation—

“approved childcare provider” means a childcare provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999(46) or the Tax Credits (Approval of Child Care Providers) Scheme 2005(47); and

“registered childcare provider” means a person who acts as a child minder or provides day care and is registered within the meaning of section 79F of the Children Act 1989(48).

Parents' learning allowance

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

(2) The amount of parents' learning allowance payable in respect of an academic year is calculated in accordance with regulation 44, the basic amount being £1,400.

Calculations

44.—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grant for dependants for which the eligible student qualifies under regulations 41 to 43 is the amount of that element remaining after applying, until it is extinguished, an amount equal to *A – Bas* follows and in the following order—

- (a) to reduce the basic amount of the adult dependants' grant where the eligible student qualifies for that element under regulation 41;
- (b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 42; and
- (c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 43.

(45) 2002 c. 21.

(46) S.I. 1999/3110.

(47) S.I. 2005/93.

(48) 1989 c. 41; section 79F was inserted by the Care Standards Act 2000 (c. 14) and amended by the Children Act 2004 (c. 41), Schedules 4 and 5.

(2) Subject to paragraphs (4), (5) and (13), where B is greater than or equal to A , the basic amount of each element of the grant for dependants for which the eligible student qualifies is payable.

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

(4) The amount of adult dependants' grant calculated under paragraph (1) is reduced by one half where—

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

(5) The amount of childcare grant calculated under paragraph (1) is reduced by one half where—

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

(6) Where the amount of the parents' learning allowance calculated under paragraph (1) is £0.01 or more but less than £50, the amount of parents' learning allowance payable is £50.

(7) In this regulation—

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

B is £1,075 where the eligible student has no dependent child;

£3,225 where the eligible student is not a lone parent and has one dependent child;

£4,300 where the eligible student is not a lone parent and has more than one dependent child;

£4,300 where the eligible student is a lone parent and has one dependent child;

£5,380 where the eligible student is a lone parent and has more than one dependent child.

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

- (a) there is a change in the number of the eligible student's dependants;
- (b) a person becomes or ceases to be a dependant of the eligible student;
- (c) the eligible student becomes or ceases to be a lone parent;
- (d) a student becomes eligible for support as a result of an event referred to in regulation 37(8).

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

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

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

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

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

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

(13) A deduction may be made in accordance with Part 8 from the amount payable in respect of a particular element of the grant for dependants calculated under this Part.

Interpretation of Chapter 4

45.—(1) In regulations 40 to 44—

- (a) "adult dependant" means, in relation to an eligible student, an adult person dependent on the student other than his child, his partner (including a spouse or civil partner from whom the Secretary of State considers the student is separated) or his former partner;
- (b) "child" in relation to an eligible student includes any child of his partner who is dependent on him and any child for whom he has parental responsibility who is dependent on him;
- (c) "dependant" means, in relation to an eligible student, his partner, his dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
- (d) "dependent" means wholly or mainly financially dependent;
- (e) "lone parent" means an eligible student who does not have a partner and who has a dependent child or dependent children;
- (f) "net income" has the meaning given in paragraph (2);
- (g) subject to sub-paragraphs (h), (i) and (j), "partner" means any of the following—
 - (i) the spouse of an eligible student;
 - (ii) the civil partner of an eligible student;
 - (iii) a person ordinarily living with an eligible student as if he were his spouse where an eligible student falls within paragraph 2(1)(a) of Schedule 4 and began the specified designated course on or after 1st September 2000;
 - (iv) a person ordinarily living with an eligible student as if he were his civil partner where an eligible student falls within paragraph 2(1)(a) of Schedule 4 and began the specified designated course on or after 1st September 2005;
- (h) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (g) is not to be treated as a partner if—
 - (i) in the opinion of the Secretary of State, that person and the eligible student are separated; or
 - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible student;

- (i) for the purposes of the definition of “adult dependant”, a person is to be treated as a partner if he would be a partner under sub-paragraph (g) but for the fact that the eligible student with whom he is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 4;
 - (j) for the purposes of the definitions of “child” and “lone parent”, a person is to be treated as a partner if he would be a partner under sub-paragraph (g) but for the date on which the eligible student began the specified designated course or the fact that the eligible student with whom he is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 4.
- (2) Subject to paragraph (3), a dependant’s net income is his income from all sources for the academic year in question reduced by the amount of income tax and social security contributions payable in respect of it but disregarding—
- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;
 - (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992(49);
 - (c) any financial support payable to the dependant by a local authority in accordance with regulations made under sections 2, 3 and 4 of the Adoption and Children Act 2002(50);
 - (d) any guardian’s allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
 - (e) in the case of a dependant with whom a child being looked after by a local authority is boarded out, any payment made to that dependant in pursuance of section 23 of the Children Act 1989(51);
 - (f) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant’s child or any assistance given by a local authority pursuant to section 24 of that Act; and
 - (g) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002.
- (3) Where an eligible student or his partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student’s course, the partner’s net income is the net income calculated in accordance with paragraph (2) reduced by—
- (a) an amount equal to the payments in question for the academic year, if in the opinion of the Secretary of State the obligation had been reasonably incurred; or
 - (b) such lesser amount, if any, as the Secretary of State considers appropriate if, in her opinion, a lesser obligation could reasonably have been incurred.
- (4) For the purposes of paragraph (2), where the dependant is a dependent child and payments are made to the eligible student towards the child’s maintenance, those payments are to be treated as the child’s income.

CHAPTER 5

GRANTS FOR TRAVEL

Qualifying conditions for the grant for travel

46.—(1) A grant is available to an eligible student attending a course in medicine or dentistry (a necessary part of which is a period of study by way of clinical training) in respect of the reasonable

(49) 1992 c. 4.

(50) 2002 c. 38.

(51) 1989 c. 41. Section 23 was amended by the Children Act 2004 (c. 31), section 49(3).

expenditure which he is obliged to incur in an academic year for the purpose of attending in connection with his course any hospital or other premises in the United Kingdom (not comprised in the institution) at which facilities for clinical training are provided other than expenditure incurred for the purpose of residential study away from the institution.

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

Amount of the grant for travel

47.—(1) The amount of grant payable in respect of an academic year is equal to the reasonable expenditure that the Secretary of State determines the eligible student is obliged to incur for the purposes set out in regulation 46(1) or regulation 46(2) less £285.

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

- (a) includes expenditure both before and after so attending; and
- (b) does not include any expenditure in respect of which a grant is payable under Chapter 3 of this Part.

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

(4) A deduction may be made from a grant under this Chapter in accordance with Part 8.

CHAPTER 6

MAINTENANCE GRANTS FOR NEW SYSTEM STUDENTS

Qualifying conditions for the maintenance grant

48.—(1) A new system student qualifies in accordance with this regulation for a maintenance grant in connection with his attendance on a designated course.

(2) A new system student does not qualify for a maintenance grant if he qualifies for a special support grant.

(3) If a new system student does not qualify for a fee loan in respect of an academic year of the designated course, he cannot qualify for a maintenance grant for that year unless the reason that he does not qualify for a fee loan is because—

- (a) the year is an Erasmus year; or
- (b) the designated course is a flexible postgraduate course for the initial training of teachers.

Amount of the maintenance grant

49.—(1) The maximum amount of maintenance grant available in respect of an academic year is—

- (a) in the case of a type 1 teacher training student, £1,350;
- (b) in the case of a type 2 teacher training student, £2,700; and
- (c) in the case of a new system student other than a type 1 or type 2 teacher training student, £2,700.

(2) A type 1 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £17,500 or less, he receives £1,350;
- (b) where the household income exceeds £17,500 but does not exceed £26,500, he receives an amount equal to

$$M \left(\frac{A}{2} \right)$$

where

M is £1,350

A is £1 for every complete £6 by which the household income exceeds £17,500; and

- (c) where the household income exceeds £26,500 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £600.

(3) A type 2 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year —

- (a) where the household income is £17,500 or less, he receives £2,700;
- (b) where the household income exceeds £17,500 but does not exceed £26,500, he receives an amount equal to $M - A$ where—

M is £2,700

A is £1 for every complete £6 by which the household income exceeds £17,500; and

- (c) where the household income exceeds £26,500 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £1,200.

(4) A new system student other than a type 1 or type 2 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £17,500 or less, he receives £2,700;
- (b) where the household income exceeds £17,500 but does not exceed £26,500, he receives an amount equal to $M - A$ where—

M is £2,700

A is £1 for every complete £6 by which the household income exceeds £17,500;

- (c) where the household income exceeds £26,500 but does not exceed £37,425, he receives an amount equal to $RM - A$ where—

RM is £1,200

A is £1 for every complete £9.50 by which the household income exceeds £26,500;

- (d) where the household income exceeds £37,425, no maintenance grant is payable.

CHAPTER 7

SPECIAL SUPPORT GRANTS FOR NEW SYSTEM STUDENTS

Qualifying conditions for the special support grant

50.—(1) A new system student qualifies in accordance with this regulation for a special support grant in connection with his attendance on a designated course to defray the costs of books, equipment, travel or childcare incurred for the purpose of attending that course.

- (2) A new system student qualifies for a special support grant if he—

- (a) falls within a prescribed category of person for the purposes of section 124(1)(e) of the Social Security Contributions and Benefits Act 1992(52); or
- (b) is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act(53).

(3) If a new system student does not qualify for a fee loan in respect of an academic year of the designated course, he cannot qualify for a special support grant for that year unless the reason that he does not qualify for a fee loan is because—

- (a) the year is an Erasmus year; or
- (b) the designated course is a flexible postgraduate course for the initial training of teachers.

Amount of the special support grant

51.—(1) The maximum amount of special support grant available in respect of an academic year is—

- (a) in the case of a type 1 teacher training student, £1,350;
- (b) in the case of a type 2 teacher training student, £2,700;
- (c) in the case of a new system student other than a type 1 or type 2 teacher training student, £2,700.

(2) A type 1 teacher training student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £17,500 or less, he receives £1,350;
- (b) where the household income exceeds £17,500 but does not exceed £26,500, he receives an amount equal to

$$M - \left(\frac{A}{2} \right)$$

where—

M is £1,350

A is £1 for every complete £6 by which the household income exceeds £17,500; and

- (c) where the household income exceeds £26,500 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £600.

(3) A type 2 teacher training student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £17,500 or less, he receives £2,700;
- (b) where the household income exceeds £17,500 but does not exceed £26,500, he receives an amount equal to $M - A$ where—

M is £2,700

A is £1 for every complete £6 by which the household income exceeds £17,500; and

- (c) where the household income exceeds £26,500 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £1,200.

(52) 1992 c. 4. The relevant regulation is regulation 4ZA of the Income Support (General) Regulations 1987 (S.I. 1987/1967). Regulation 4ZA was inserted by S.I. 1996/206, amended by S.I. 2000/1981; there are other amending instruments but none is relevant.

(53) The relevant regulation is regulation 48A of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971). Regulation 48A was inserted by S.I. 1990/1549; relevant amending instruments are S.I. 1992/432, 1995/626, 1996/1510 and 1998/766.

(4) A new system student other than a type 1 or type 2 teacher training student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

- (a) where the household income is £17,500 or less, he receives £2,700;
- (b) where the household income exceeds £17,500 but does not exceed £26,500, he receives an amount equal to $M - A$ where—

M is £2,700

A is £1 for every complete £6 by which the household income exceeds £17,500;

- (c) where the household income exceeds £26,500 but does not exceed £37,425, he receives an amount equal to $RM - A$ where—

RM is £1,200

A is £1 for every complete £9.50 by which the household income exceeds £26,500;
and

- (d) where the household income exceeds £37,425, no special support grant is payable.

CHAPTER 8

HIGHER EDUCATION GRANTS FOR OLD SYSTEM STUDENTS

Qualifying conditions for the higher education grant

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

(2) An old system student does not qualify for a higher education grant unless he began the specified designated course on or after 1st September 2004.

(3) If an old system student does not qualify for a grant for fees in respect of an academic year of the designated course, he cannot qualify for a higher education grant for that year unless the reason that he does not qualify for a grant for fees is because—

- (a) the year is an Erasmus year; or
- (b) the designated course is a flexible postgraduate course for the initial training of teachers.

Amount of the higher education grant

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

(2) An old system student who qualifies for a higher education grant receives an amount as follows—

- (a) where the household income is £15,970 or less, he receives £1,000;
- (b) where the household income exceeds £15,970 and does not exceed £21,955, he receives an amount equal to $M - A$ where—

M is £1,000

A is £1 for every complete £6.30 by which the household income exceeds £15,970;
and

- (c) where the household income exceeds £21,955, no higher education grant is payable.

PART 6
LOANS FOR LIVING COSTS
CHAPTER 1
QUALIFYING CONDITIONS

Qualifying conditions for the loan for living costs – new system students

54.—(1) Subject to paragraph (3), a new system student qualifies for a loan for living costs in connection with his attendance on a designated course if he meets the following conditions—

- (a) he is under the age of 60 on the relevant date; and
 - (b) he does not have an honours degree from an institution in the United Kingdom.
- (2) The condition in paragraph (1)(b) does not apply where—
- (a) the designated course is considered to be a single course under regulations 5(5) and 5(6);
 - (b) the designated course leads to qualification as a social worker;
 - (c) the new system student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to his income or a Scottish healthcare allowance the amount of which is calculated by reference to his income in respect of any academic year of the course; or
 - (d) the new system student is on a course for the initial training of teachers.

(3) A new system student does not qualify for a loan for living costs if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.

(4) To receive a loan for living costs, a new system student must enter into a contract with the Secretary of State.

Qualifying conditions for the loan for living costs – old system students

55.—(1) Subject to paragraph (4), an old system student who falls within paragraph (a) or (d) (i) of the definition of “old system student” in regulation 2 qualifies for a loan for living costs in connection with his attendance on a designated course if he is under the age of 60 on the relevant date.

(2) Subject to paragraph (4), an old system student who falls within paragraph (b), (c) or (d) (ii) of the definition of “old system student” in regulation 2 qualifies for a loan for living costs in connection with his attendance on a designated course if he meets the following conditions—

- (a) he is under the age of 60 on the relevant date; and
 - (b) he does not have an honours degree from an institution in the United Kingdom.
- (3) The condition in paragraph (2)(b) does not apply where—
- (a) the designated course is considered to be a single course under regulations 5(5) and 5(6);
 - (b) the designated course leads to qualification as a social worker;
 - (c) the old system student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to his income or a Scottish healthcare allowance the amount of which is calculated by reference to his income in respect of any academic year of the course; or
 - (d) the old system student is on a course for the initial training of teachers.

(4) An old system student does not qualify for a loan for living costs if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.

(5) To receive a loan for living costs, an old system student must enter into a contract with the Secretary of State.

CHAPTER 2

MAXIMUM AMOUNTS OF LOANS

General

56.—(1) The maximum amount of a loan for living costs in respect of an academic year is calculated as follows—

- (a) where the eligible student is a new system student with full entitlement, in accordance with regulation 57 or 58;
- (b) where the eligible student is an old system student with full entitlement, in accordance with regulation 59;
- (c) where the eligible student is a student with reduced entitlement, in accordance with regulation 60.

New system students with full entitlement

57.—(1) This regulation applies to a new system student with full entitlement (other than a type 1 or type 2 teacher training student whose contribution exceeds nil).

(2) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year (other than the final year of a course that is not an accelerated course) is equal to $X - Y$ where—

X is—

- (i) for a student in category A, £3,415;
- (ii) for a student in category B, £6,170;
- (iii) for a student in category C or D, £5,255;
- (iv) for a student in category E, £4,405;

Y is the maintenance grant amount.

(3) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year that is the final year of a course that is not an accelerated course is equal to $X - Y$ where—

X is—

- (i) for a student in category A, £3,085;
- (ii) for a student in category B, £5,620;
- (iii) for a student in category C or D, £4,570;
- (iv) for a student in category E, £4,080;

Y is the maintenance grant amount.

(4) In this regulation, “the maintenance grant amount” is—

- (a) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant not exceeding £1,200, the amount of maintenance grant payable;
- (b) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant exceeding £1,200, £1,200; and
- (c) where no maintenance grant is payable, nil.

Type 1 and type 2 teacher training students

58.—(1) This regulation applies to a new system student with full entitlement who is a type 1 or type 2 teacher training student whose contribution exceeds nil.

(2) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year (other than the final year of a course that is not an accelerated course) is —

- (a) for a student in category A, £3,415;
- (b) for a student in category B, £6,170;
- (c) for a student in category C or D, £5,255;
- (d) for a student in category E, £4,405.

(3) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year that is the final year of a course that is not an accelerated course is—

- (a) for a student in category A, £3,085;
- (b) for a student in category B, £5,620;
- (c) for a student in category C or D, £4,570;
- (d) for a student in category E, £4,080.

Old system students with full entitlement

59.—(1) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which an old system student with full entitlement qualifies in respect of an academic year (other than the final year of a course that is not an accelerated course) is—

- (a) for a student in category A, £3,415;
- (b) for a student in category B, £6,170;
- (c) for a student in category C or D, £5,255;
- (d) for a student in category E, £4,405.

(2) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which an old system student with full entitlement qualifies in respect of an academic year that is the final year of a course that is not an accelerated course is—

- (a) for a student in category A, £3,085;
- (b) for a student in category B, £5,620;
- (c) for a student in category C or D, £4,570;
- (d) for a student in category E, £4,080.

Students with reduced entitlement

60.—(1) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which a student with reduced entitlement qualifies in respect of an academic year of a course (other than the final year of a course that is not an accelerated course) is—

- (a) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 37(3)(a) or 37(3)(b)—
 - (i) for a student in category A, £1,620;
 - (ii) for a student in category B, £3,030;
 - (iii) for a student in category C, D or E, £2,160.

- (b) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 37(3)(c) or 37(5)—
 - (i) for a student in category A, £1,620;
 - (ii) for a student in category B, £3,030;
 - (iii) for a student in category C or D, £2,585;
 - (iv) for a student in category E, £2,160;
- (c) where the student applies for a loan for living costs and opts not to provide the information needed to calculate the household income an amount equal to $X - Y$ where—
 - X is—
 - (i) for a student in category A, £2,560;
 - (ii) for a student in category B, £4,630;
 - (iii) for a student in category C or D, £3,940;
 - (iv) for a student in category E, £3,305;
 - Y is the amount specified in paragraph (d);
- (d) the specified amount is—
 - (i) £600 where the student is a type 1 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £600;
 - (ii) £1,200 where the student is a type 2 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £1,200;
 - (iii) nil where the student is not a type 1 or type 2 teacher training student.

(2) Subject to Chapter 3 of this Part, the maximum amount of loan for living costs for which a student with reduced entitlement qualifies in respect of an academic year that is the final year of a course that is not an accelerated course is—

- (a) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 37(3)(a) or 37(3)(b)—
 - (i) for a student in category A, £1,230;
 - (ii) for a student in category B, £2,320;
 - (iii) for a student in category C, D or E, £1,680;
- (b) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 37(3)(c) or 37(5)—
 - (i) for a student in category A, £1,320;
 - (ii) for a student in category B, £2,320;
 - (iii) for a student in category C or D, £1,885;
 - (iv) for a student in category E, £1,680;
- (c) where the student applies for a loan for living costs and opts not to provide the information needed to calculate the household income an amount equal to $X - Y$ where—
 - X is—
 - (i) for a student in category A, £2,315;
 - (ii) for a student in category B, £4,215;
 - (iii) for a student in category C or D, £3,430;

- (iv) for a student in category E, £3,060;
- Y is the amount specified in paragraph (d);
- (d) the specified amount is—
 - (i) £600 where the student is a type 1 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £600;
 - (ii) £1,200 where the student is a type 2 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £1,200;
 - (iii) nil where the student is not a type 1 or type 2 teacher training student.

CHAPTER 3

MISCELLANEOUS

Quarters in respect of which the loan for living costs is payable

61.—(1) Subject to regulation 64, the loan for living costs is payable in respect of three quarters of the academic year.

(2) The loan for living costs is not payable in respect of the quarter in which, in the opinion of the Secretary of State, the longest of any vacation occurs.

Students falling into more than one category

62.—(1) Where an eligible student falls into more than one of the categories set out in regulation 69 in the course of the academic year—

- (a) the maximum amount of loan for living costs for the academic year is the aggregate of the maximum amount of loan for living costs for each quarter in respect of which the loan for living costs is payable;
- (b) the maximum amount of loan for living costs for each such quarter is one third of the maximum amount of loan for living costs which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year; and
- (c) subject to paragraph (2), the category which applies to a quarter is—
 - (i) the category into which the student falls for the longer or longest period in that quarter; or
 - (ii) if the student falls into more than one category for an equal period in that quarter, the category with the higher or highest rate of loan for living costs for the academic year.

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

Students residing with parents

63.—(1) Where an eligible student resides at his parents' home and the Secretary of State is satisfied that in all the circumstances his parents by reason of age, incapacity or otherwise cannot reasonably be expected to support him and that it would be appropriate for the amount of loan for living costs payable to a student in a category other than category A to apply in his case, the student must be treated as if he were not residing at his parents' home for the purposes of this Part.

(2) Paragraph (1) does not apply to an eligible student who begins the specified designated course on or after 1st September 2004.

Students becoming eligible in the course of an academic year

64.—(1) Where one of the events listed in paragraph (2) occurs in the course of an academic year, a student may qualify for a loan for living costs in respect of such quarters in respect of which a loan for living costs is payable as begin after the relevant event occurs.

(2) The events are—

- (a) the student's course becomes a designated course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence as defined in Part 1 of Schedule 1;
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (f) the student becomes the child of a Swiss national.

(3) An eligible student to whom paragraph (1) applies does not qualify for a loan for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The maximum amount of loan for living costs payable is the aggregate of the maximum amount of loan for living costs for each quarter in respect of which the student qualifies for the loan for living costs under this regulation.

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

Disabled students

65. A disabled student who is undertaking a designated course in the United Kingdom but who is unable to attend for a reason which relates to his disability is treated as if he were in attendance for the purposes of qualifying for a loan for living costs.

Increases in maximum amount

66.—(1) Where an eligible student is required to attend his course for a period exceeding 30 weeks and 3 days in an academic year, the maximum amount of loan for living costs specified in Chapter 2 of this Part is increased for each week or part week of attendance in the academic year beyond 30 weeks and 3 days by the relevant amount in paragraph (3).

(2) Where an eligible student attends his course for a period of not less than 45 weeks in any continuous period of 52 weeks, the maximum amount of loan for living costs specified in Chapter 2 of this Part is increased for each week in the 52-week period during which he did not attend by the relevant amount in paragraph (3).

(3) The amount is—

- (a) for a student in category A, £51;
- (b) for a student in category B, £98;
- (c) for a student in category C or D, £107;
- (d) for a student in category E, £77.

(4) This regulation does not apply in the case of a student with reduced entitlement.

Deductions from loans for living costs

67.—(1) A deduction from the amount of loan for living costs calculated under this Part in respect of a new system student with full entitlement or an old system student with full entitlement may be made in accordance with Part 8.

(2) There is no deduction under Part 8 from the amount of loan for living costs calculated under this Part in respect of a student with reduced entitlement.

Applying for an additional amount of loan for living costs

68.—(1) An eligible student may apply to borrow an additional amount of loan for living costs where—

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

(2) The additional amount under paragraph (1) is an amount which when added to the amount already applied for does not exceed the increased maximum.

(3) Where an eligible student has applied for a loan for living costs of less than the maximum amount to which he is entitled in relation to the academic year, he may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in his case.

Categories of student

69. In this Part—

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

- (e) a student is in category E if he is not in categories A to D.

Interpretation of Part 6

70. In this Part—

- (a) a “new system student with full entitlement” is a new system student other than a student with reduced entitlement;
- (b) an “old system student with full entitlement” is an old system student other than a student with reduced entitlement;
- (c) the “relevant date” means the first day of the first academic year of the specified designated course;
- (d) a “student with reduced entitlement” is an eligible student who—
 - (i) does not qualify for a grant for living and other costs in respect of the academic year because of regulation 37(3)(a) or 37(3)(b);
 - (ii) does not qualify for a grant for living and other costs in respect of the academic year because of regulation 37(3)(c) or 37(5); or
 - (iii) opts when applying for a loan for living costs not to provide the information needed to calculate the household income;
- (e) where the duration of a graduate-entry or postgraduate-level course for the initial training of teachers is only one academic year, that year is not to be treated as the final year.

PART 7

INTEREST AND INSOLVENCY

Interest

71.—(1) Subject to paragraph (2), loans bear interest at the rate which will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980⁽⁵⁴⁾ equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March 2005 and that index so published for March 2006.

(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⁽⁵⁵⁾ loans bear interest at the rate so specified.

(3) Interest is calculated on the principal outstanding daily and is added to the principal monthly.

(4) The index of prices to which the Secretary of State is required by section 22(8) of the 1998 Act to have regard in prescribing the rate of interest which loans bear is the retail prices all items index mentioned in paragraph (1).

Insolvency

72.—(1) In England and Wales—

⁽⁵⁴⁾ S.I. 1980/51, amended by S.I. 1989/596 and S.I. 1999/3177.

⁽⁵⁵⁾ 1974 c. 39.

- (a) there shall not be treated as part of a bankrupt's estate or claimed for his estate under section 307 or 310 of the Insolvency Act 1986⁽⁵⁶⁾ any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy; and
 - (b) there shall not be included in a person's bankruptcy debts any debt or liability to which he is or may become subject in respect of any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive—
 - (i) in the case of a bankruptcy commencing before 1st September 2004, after the commencement of the bankruptcy; or
 - (ii) in the case of a bankruptcy commencing on or after 1st September 2004, before or after the commencement of the bankruptcy.
- (2) In Northern Ireland—
- (a) there shall not be treated as part of a bankrupt's estate or claimed for his estate under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989⁽⁵⁷⁾ any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy; and
 - (b) there shall not be included in a person's bankruptcy debts any debt or liability to which he is or may become subject in respect of any sum payable to an eligible student by way of loan and which he receives or is entitled to receive—
 - (i) in the case of a bankruptcy commencing before 1st March 2005, after the commencement of the bankruptcy; or
 - (ii) in the case of a bankruptcy commencing on or after 1st March 2005, before or after the commencement of the bankruptcy.
- (3) In this regulation, "loan" means a loan pursuant to regulations made by the Secretary of State or the National Assembly for Wales under section 22 of the 1998 Act, including the interest on the loan and any penalties or charges incurred in connection with it.

PART 8

FINANCIAL ASSESSMENT

Calculation of contribution

73.—(1) An eligible student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 4.

(2) For the purposes of the exercise of the Secretary of State's functions under the 1998 Act and regulations made under it she may require an eligible student to provide from time to time such information as she considers necessary as to the income of any person whose means are relevant to the assessment of the student's contribution.

⁽⁵⁶⁾ 1986 c. 45; section 307 was amended by the Enterprise Act 2002 (c. 40), section 261. Section 310 was amended by the Pensions Act 1995 (c. 26), section 122 and Schedule 3, paragraph 15, the Welfare Reform and Pensions Act 1999 (c. 30), section 18 and Schedule 2, paragraph 2 and the Enterprise Act 2002, sections 259 and 278 and Schedule 26.

⁽⁵⁷⁾ S.I. 1989/2405 (N.I. 19); Article 283 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), Schedule 1, paragraph 11.

Application of contribution – new system students

74. In the case of a new system student, the Secretary of State must apply the contribution in accordance with regulation 76 until it is extinguished.

Application of contribution – old system students

75.—(1) Subject to paragraph (3), where the basic amount of the grant for fees has been calculated in accordance with regulation 27(1) or 28(1), to determine the actual amount of grant for fees that is payable, the Secretary of State must first apply the contribution to reduce the basic amount of the grant for fees.

(2) If the contribution is not extinguished under paragraph (1), the Secretary of State must apply the remainder in accordance with regulation 76.

(3) Where the course is a course for the initial training of teachers (other than a course for a first degree), there is no deduction from the basic amount of the grant for fees under this regulation and the contribution is applied in accordance with regulation 76.

(4) Where the basic amount of the grant for fees has been calculated in accordance with regulation 27(2) or regulation 28(2) and one of the cases set out in regulation 20(3)(b), (d) or (e) applies, to determine the actual amount of the grant for fees that is payable, the Secretary of State must—

- (a) first, apply the contribution to reduce the basic amount of the grant for fees;
- (b) second, if the contribution is not extinguished, deduct an amount equal to the basic amount of the grant for fees from what is left of the contribution reducing the remainder of the contribution to no less than nil; and
- (c) third, if the contribution is still not extinguished, apply the remainder in accordance with regulation 76.

(5) In the case of an Erasmus year, the Secretary of State must apply the amount by which the contribution exceeds £1,200 in accordance with regulation 76.

(6) Where none of the circumstances in the paragraphs (1) to (5) apply, the contribution is applied in accordance with regulation 76.

Order of application

76. The contribution or the remainder of the contribution, as the case may be, is to be applied as follows until it is extinguished—

- (a) first, to reduce the amount of adult dependants' grant calculated in accordance with regulation 44;
- (b) second, to reduce the childcare grant calculated in accordance with regulation 44;
- (c) third, to reduce the parents' learning allowance calculated in accordance with regulation 44 (except the first £50 of the allowance);
- (d) fourth, to reduce the loan for living costs for which the eligible student (other than a student with reduced entitlement) qualifies under Part 6 to no less than the minimum level for the academic year;
- (e) fifth, to reduce the grant for travel calculated in accordance with regulation 47.

Application of contribution to loan for living costs

77.—(1) Subject to paragraphs (2) and (3), the “minimum level for the academic year” in regulation 76(d) is—

- (a) £2,560, in the case of a student in category A;
 - (b) £4,630, in the case of a student in category B;
 - (c) £3,940, in the case of a student in category C or D;
 - (d) £3,305, in the case of a student in category E.
- (2) Subject to paragraph (3), where the academic year in question is the final year of a course other than an accelerated course, the “minimum level for the academic year” is—
- (a) £2,315, in the case of a student in category A;
 - (b) £4,215, in the case of a student in category B;
 - (c) £3,430, in the case of a student in category C or D;
 - (d) £3,060, in the case of a student in category E.
- (3) Where different categories apply for different quarters of the academic year, the minimum levels in paragraphs (1) and (2) are the aggregate of the amounts determined under paragraph (4) for each of the quarters in respect of which a loan is payable.
- (4) The amount determined for each quarter is one third of the amount in paragraph (1) or (2) which corresponds to the rate applicable for the quarter.
- (5) The rate applicable for a quarter is determined in accordance with regulation 62.
- (6) Paragraph (7) applies to type 1 and type 2 teacher training students who qualify for a maintenance grant and whose contribution exceeds nil.
- (7) The loan for living costs payable in respect of an academic year to a student to whom this paragraph applies is calculated as follows—
- $$A - B$$
- where
- A* is the amount of loan for living costs left after applying the contribution in accordance with this Part; and
 - B* is the amount of maintenance grant payable to the student.
- (8) Categories A to E have the meaning given in regulation 69.

PART 9

PAYMENTS

Payment of grants for fees

- 78.**—(1) The Secretary of State must not pay the grant for fees for which a student qualifies until she has received a valid request for payment from the academic authority.
- (2) Payment must be made to the academic authority—
- (a) not before the expiry of a period of three months beginning with the first day of the academic year; and
 - (b) not later than 10 weeks after the expiry of the period in sub-paragraph (a), or promptly after a valid request for payment has been received, if that is later.
- (3) Where assessment of the student’s contribution or other matters have delayed the final calculation of the amount of grant for fees for which the student qualifies, the Secretary of State may make a provisional assessment and payment.
- (4) No payment of the grant for fees can be made in respect of a designated course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend the course; and
- (b) the academic authority has determined or agreed that the student will not commence attending again during the academic year in respect of which the fees are payable or at all.

Payment of fee loans and fee contribution loans

79.—(1) The Secretary of State must pay the fee loan or fee contribution loan for which an eligible student qualifies to an institution to which the student is liable to make payment.

(2) The Secretary of State may pay the fee loan or fee contribution loan in instalments.

(3) The Secretary of State must not pay the fee loan or fee contribution loan before—

- (a) she has received a valid request for payment from the academic authority; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) Where assessment of an old system student's contribution or other matters have delayed the final calculation of the amount of fee contribution loan for which the student qualifies, the Secretary of State may make a provisional assessment and payment.

(5) No payment of fee loan or fee contribution loan can be made in respect of a designated course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend the course; and
- (b) the academic authority has determined or agreed that the student will not commence attending again during the academic year in respect of which the fees are payable or at all.

Payment of loans – information requirements

80.—(1) The Secretary of State may at any time request from an applicant or eligible student information which she considers is required to recover a loan.

(2) The Secretary of State may at any time require an applicant or eligible student to enter into an agreement to repay a loan by a particular method.

(3) The Secretary of State may at any time request from an applicant or eligible student sight of his valid national identity card, his valid passport issued by the state of which he is a national or his birth certificate.

(4) The Secretary of State may at any time verify with the Department for Work and Pensions the United Kingdom national insurance number that an applicant or eligible student has provided or may check with the Department for Work and Pensions whether he has such a number with a view to obtaining it if he does.

(5) Where the Secretary of State has requested information or documents under this regulation, she may withhold any payment of a loan until the person provides what has been requested or provides a satisfactory explanation for not complying with the request.

(6) Where the Secretary of State has requested an agreement as to the method of repayment under this regulation, she may withhold any payment of a loan until the person provides what has been requested.

Payment of grants for living and other costs and loans for living costs – timing of payments

81.—(1) The Secretary of State may pay support under Part 5 or Part 6 in instalments.

(2) Subject to paragraph (3), the Secretary of State may pay support under Part 5 or Part 6 at such times as she considers appropriate.

(3) Where an institution is required to send an attendance confirmation to the Secretary of State, the Secretary of State must not pay the first instalment or, where it has been determined not to pay support under Part 5 or Part 6 by instalments, make any payment of support under Part 5 or Part 6 to the eligible student before she has received that confirmation unless an exception applies.

(4) An exception applies if—

- (a) a disabled students' allowance is payable in which case that particular grant may be paid before the Secretary of State has received an attendance confirmation; or
- (b) the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.

(5) An institution is required to send an attendance confirmation to the Secretary of State in respect of an academic year of the current course where the year begins on or after 1st September 2006.

(6) In this regulation, “attendance confirmation” means—

- (a) confirmation from the institution that the student has enrolled for the academic year where—
 - (i) the student is applying for support in connection with a designated course for the first time;
 - (ii) the student has a disability; and
 - (iii) the student is undertaking the course but not attending (regardless of whether the reason for not attending relates to his disability);
- (b) confirmation from the institution that the student has presented himself at the institution and begun to attend the course where—
 - (i) the student is applying for support in connection with a designated course for the first time;
 - (ii) the student has not had his status as an eligible student transferred to the course from another designated course at the same institution; and
 - (iii) sub-paragraph (a)(iii) does not apply;
- (c) confirmation from the institution that the student has enrolled for the academic year where—
 - (i) the student is applying for support in connection with a designated course other than for the first time; or
 - (ii) the student is applying for support in connection with a designated course for the first time after having his status as an eligible student transferred to that course from another course at the same institution.

Payment of grants for living and other costs and loans for living costs - general provisions

82.—(1) Where a final assessment cannot be made on the basis of the information provided by the student, the Secretary of State may make a provisional assessment and payment of the support under Part 5 or Part 6.

(2) Payments of support under Part 5 or Part 6 are to be made in such manner as the Secretary of State considers appropriate and she may make it a condition of entitlement to payment that the eligible student must provide her with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(3) Subject to regulation 7, no support under Part 5 or Part 6 is due in respect of a payment period beginning after an eligible student has withdrawn from, abandoned or been expelled from his course.

(4) In this regulation, “payment period” means a period in respect of which the Secretary of State pays the relevant support under Part 5 or Part 6 or would have paid such support if the eligible student had not withdrawn from, abandoned, been expelled from or been absent from his course.

(5) Where an eligible student withdraws from, abandons or is expelled from his course on or after the relevant date, the Secretary of State must determine—

- (a) the amount of each grant for living and other costs for which the student qualifies that would be payable in respect of the relevant payment period if the student had not withdrawn from, abandoned or been expelled from the course (the “full amount”); and
- (b) how much of the full amount is due in respect of the period which runs from the first day of the relevant payment period up to and including the day on which the student withdraws, abandons or is expelled from the course (the “partial amount”).

(6) In this regulation, the “relevant date” is the date on which the first term of the academic year in question actually begins.

(7) If the Secretary of State has made a payment of a grant for living and other costs in respect of the relevant payment period before the point in that period at which the student withdraws from, abandons or is expelled from the course and that payment exceeds the partial amount of that grant—

- (a) she may treat the excess as an overpayment of that grant; or
- (b) if she considers that it is appropriate to do so she may extend the student’s period of eligibility in respect of that grant until the end of the relevant payment period and determine that the full amount of that grant is due in respect of that payment period.

(8) If a payment of a grant for living and other costs in respect of the relevant payment period is due to be made or is made after the student withdraws from, abandons or is expelled from the course, the amount of that grant due is the partial amount unless the Secretary of State considers that it is appropriate to extend the period of eligibility in respect of that grant until the end of the relevant payment period and to determine that the full amount of that grant is due in respect of that payment period.

(9) No support under Part 5 or Part 6 is due in respect of a payment period during any part of which an eligible student is absent from his course, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(10) In deciding whether it would be appropriate for support to be due under paragraph (9) the circumstances to which the Secretary of State must have regard include the reasons for the student’s absence, the length of the absence and the financial hardship which not paying all or part of the support would cause.

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

(12) Where, after the Secretary of State has made any payment of support under Part 5 or Part 6, she makes a determination of the amount of a grant for living and other costs for which the student qualifies in respect of an academic year either for the first time or by way of revision of a provisional or other determination of that amount—

- (a) if the determination increases the amount of that grant for which the student qualifies she must pay the additional amount in such instalments (if any) and at such times as she considers appropriate;
- (b) if the determination decreases the amount of that grant for which the student qualifies she must subtract the amount of the decrease from the amount of that grant which remains to be paid;
- (c) if the amount of the decrease is greater than the amount of that grant remaining to be paid the latter amount is reduced to nil and the balance subtracted from any other grant for living and other costs for which the student qualifies in respect of the academic year;

(d) any remaining overpayment is recoverable in accordance with regulation 83.

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

(14) Where, after the Secretary of State has made any payment of loan for living costs for which a student qualifies in respect of an academic year under Part 6, she makes a determination that the amount of loan for living costs for which the student qualifies is less than the amount previously determined either by way of revision of a provisional determination or otherwise—

- (a) she must subtract such amount as is necessary to ensure that the student does not borrow an amount of loan for living costs which is greater than that for which he qualifies from any amount of loan for living costs which remains to be paid;
- (b) if the amount to be subtracted is greater than the amount of loan for living costs remaining to be paid, the latter amount is reduced to nil;
- (c) any remaining overpayment is recoverable in accordance with regulation 83.

Overpayments

83.—(1) Any overpayment of fee support is recoverable by the Secretary of State from the academic authority.

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

(3) The Secretary of State must recover an overpayment of any grant for living and other costs unless she considers it is not appropriate to do so.

(4) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
- (b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(5) A payment of any grant for living and other costs made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(6) In this regulation, the “relevant date” is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances in paragraph (8) or (9), there is an overpayment of the disabled students' allowance unless the Secretary of State decides otherwise.

(8) The circumstances are—

- (a) the Secretary of State applies all or part of the disabled students' allowance to the purchase of specialist equipment on behalf of the eligible student;
- (b) the student withdraws from, abandons or is expelled from the course after the relevant date; and
- (c) the equipment has not been delivered to the student before he withdraws from, abandons or is expelled from the course.

(9) The circumstances are—

- (a) the eligible student withdraws from, abandons or is expelled from the course after the relevant date; and
- (b) a payment of the disabled students' allowance in respect of specialist equipment is made to the student after he withdraws from, abandons or is expelled from the course.

(10) Where there is an overpayment of the disabled students' allowance, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if she considers it is appropriate to do so.

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

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

(12) Where an overpayment of a loan for living costs is recoverable under paragraph (11), it may be recovered in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from the amount of any loan for living costs payable to the student from time to time;
- (b) by taking such other action for the recovery of an overpayment as is available to her.

(13) Where there has been an overpayment of a loan for living costs which is not recoverable under paragraph (11), the Secretary of State may subtract the overpayment from the amount of any loan for living costs payable to the student from time to time.

PART 10

SUPPORT FOR PART-TIME COURSES

Eligible part-time students

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

(2) Subject to paragraph (3), a person is an eligible part-time student in connection with a designated part-time course if the Secretary of State has determined in connection with that course that the person falls within one of the categories set out in Part 2 of Schedule 1.

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

- (a) there has been bestowed on him or paid to him in connection with the part-time course—
 - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to his income;
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(**58**); or

- (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income;
 - (b) he is in breach of any obligation to repay any loan;
 - (c) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18;
 - (d) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support; or
 - (e) subject to paragraph (4), he is a prisoner serving a custodial sentence.
- (4) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.
- (5) For the purposes of paragraphs (3)(b) and (3)(c), “loan” means a loan made under the student loans legislation.
- (6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) only applies if the agreement was made—
- (a) before 25th September 1991; and
 - (b) with the concurrence of the borrower’s curator or at a time when he had no curator.
- (7) Despite paragraphs (2) and (3), a person is an eligible part-time student for the purposes of this Part if he satisfies the conditions in paragraph (8) or (9).
- (8) The conditions in this paragraph are—
- (a) the person qualified as an eligible part-time student in connection with an earlier academic year of the current designated part-time course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (b) the person was not ordinarily resident in Wales on the first day of the current designated part-time course; and
 - (c) the person’s status as an eligible part-time student has not terminated.
- (9) The conditions in this paragraph are—
- (a) the Secretary of State has previously determined that the person is—
 - (i) an eligible student in connection with a designated course; or
 - (ii) an eligible part-time student in connection with a designated part-time course other than the current designated part-time course;
 - (b) the person’s status as an eligible student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current designated part-time course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
 - (d) the person’s status as an eligible part-time student has not terminated.
- (10) An eligible part-time student may not, at any one time, qualify for support for—
- (a) more than one designated part-time course;
 - (b) a designated part-time course and a designated course;
 - (c) a designated part-time course and a designated postgraduate course.
- (11) Where one of the events listed in paragraph (13) occurs in the course of an academic year—

- (a) a student may qualify for a grant in respect of fees in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and
 - (b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (12) Where one of the events listed in sub-paragraphs (a), (b), (d), (e), (f) or (g) of paragraph (13) occurs in the course of an academic year—
- (a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and
 - (b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (13) The events are—
- (a) the student's course becomes a designated part-time course;
 - (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;
 - (c) the state of which the student is a national accedes to the European Community;
 - (d) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
 - (e) the student acquires the right of permanent residence as defined in Part 1 of Schedule 1;
 - (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
 - (g) the student becomes the child of a Swiss national.

Designated part-time courses

85.—(1) Subject to paragraphs (2) and (3), a part-time course is designated for the purposes of section 22(1) of the 1998 Act and regulation 84 if—

- (a) it is a course mentioned in Schedule 2 other than a course for the initial training of teachers;
- (b) it is of at least one academic year's duration and does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
- (c) it is wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or is provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not designated by or under regulation 5.

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

(3) A course that is taken as part of an employment-based teacher training scheme is not a designated part-time course.

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

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

- (b) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
 - (c) an institution is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(59).
- (5) For the purposes of section 22 of the 1998 Act and regulation 84(1) the Secretary of State may designate courses of higher education which are not designated by paragraph (1).

Period of eligibility

86.—(1) An eligible part-time student retains his status as an eligible part-time student in connection with a designated part-time course until the status terminates in accordance with this regulation.

(2) The period for which an eligible part-time student retains his status is the “period of eligibility”.

(3) Subject to the following paragraphs, the period of eligibility terminates at the end of the academic year in which the eligible part-time student completes the designated part-time course.

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

- (a) withdraws from his designated part-time course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert his status under regulation 95 or 96; or
- (b) abandons or is expelled from his designated part-time course.

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

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

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 99.

(7) Where the period of eligibility terminates before the end of the academic year in which the eligible part-time student completes the designated part-time course, the Secretary of State may, at any time, renew the period of eligibility for such period as she determines.

Assistance for part-time courses

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

- (a) a grant in respect of fees not exceeding the lesser of the following amounts—
 - (i) the basic grant, and
 - (ii) the “actual fees”, being the amount of fees charged to the student in respect of an academic year of the designated part-time course; and

(59) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

- (b) a grant not exceeding £250 for books, travel and other expenditure in connection with the designated part-time course.
- (2) An eligible part-time student does not qualify for assistance under paragraph (1)(b) if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.
- (3) An eligible part-time student qualifies for assistance—
 - (a) under paragraph (1)(a) if the Secretary of State considers that he is undertaking the designated part-time course in England; and
 - (b) under paragraph (1)(b) if the Secretary of State considers that he is undertaking the designated part-time course in the United Kingdom.
- (4) An eligible part-time student does not qualify for support under this regulation if he has undertaken one or more part-time courses for eight academic years in aggregate and he has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (5).
- (5) The loans and grants are—
 - (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course pursuant to regulations made under section 22 of the 1998 Act;
 - (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998⁽⁶⁰⁾; or
 - (c) a loan in respect of an academic year of a part-time course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980⁽⁶¹⁾.
- (6) An eligible part-time student does not qualify for support under this regulation if he holds a first degree from an educational institution in the United Kingdom.
- (7) For the purposes of paragraph (6), a degree is not to be treated as a first degree where—
 - (a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for his first degree course; and
 - (b) the eligible part-time student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

Amount of assistance

- 88.—(1) The basic grant varies according to the intensity of study.
- (2) The intensity of study is calculated as follows and expressed as a percentage—

$$\frac{FT}{FT'} \times 100$$

where

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

⁽⁶⁰⁾ S.I. 1998/1760 (N.I. 14).

⁽⁶¹⁾ 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp6), section 3(2). Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998. Section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

PT is the number of academic years ordinarily required to complete the designated part-time course.

- (3) The “basic grant” is—
- (a) £750 where the intensity of study is less than 60 per cent. (“level 1”);
 - (b) £900 where the intensity of study is 60 per cent. or more but less than 75 per cent. (“level 2”);
 - (c) £1,125 where the intensity of study is 75 per cent. or more (“level 3”).
- (4) Subject to paragraph (5) and regulation 95(6), the amount of assistance payable in respect of an academic year is as follows—
- (a) the maximum amount of assistance available under regulation 87(1) is payable if at the date of his application the eligible part-time student or his partner is entitled—
 - (i) under Part VII of the Social Security Contributions and Benefits Act 1992(62) to income support, housing benefit or council tax benefit; or
 - (ii) under Part 1 of the Jobseekers Act 1995(63) to income-based jobseekers allowance or under section 2 of the Employment and Training Act 1973(64) to new deal allowance;
 - (b) where the relevant income is less than £15,345, the maximum amount of assistance available under regulation 87(1) is payable;
 - (c) where the relevant income is £15,345, the maximum amount of assistance available under regulation 87(1)(b) is payable together with £50 less than the maximum amount of assistance available under regulation 87(1)(a);
 - (d) where the relevant income exceeds £15,345 but is less than £23,145, the maximum amount of assistance available under regulation 87(1)(b) is payable and the amount of assistance payable under regulation 87(1)(a) is the amount determined in accordance with paragraph (5);
 - (e) where the relevant income is £23,145, the maximum amount of assistance available under regulation 87(1)(b) is payable and the amount of assistance payable under regulation 87(1)(a) is £50;
 - (f) where the relevant income exceeds £23,145 but is less than £23,745, the maximum amount of assistance available under regulation 87(1)(b) is payable and no assistance is payable under regulation 87(1)(a);
 - (g) where the relevant income is £23,745 or more but less than £25,645, no assistance is available under regulation 87(1)(a) and the amount of assistance payable under regulation 87(1)(b) is the amount left after deducting from the maximum amount of assistance available under regulation 87(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £23,745;
 - (h) where the relevant income is £25,645, no assistance is payable under regulation 87(1)(a) and the amount of assistance payable under regulation 87(1)(b) is £50;

(62) 1992 c. 4; Part VII was amended by the Housing Act 1991 (c. 52), Schedule 19; the Local Government Finance Act 1992 (c. 14), Schedule 9 and Schedule 14; the Jobseekers Act 1995 (c. 18), Schedule 2 and Schedule 3; the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8; the State Pension Credit Act 2002 (c. 16), Schedule 2 and Schedule 3 and the Civil Partnership Act 2004 (c. 33), Schedule 24.

(63) 1995 c. 18; Part 1 was amended by the Employment Rights Act 1996 (c. 18), Schedule 1; the Social Security Act 1998 (c. 14), Schedules 7 and 8; the Welfare Reform and Pensions Act 1999 (c. 30), Schedules 7, 8 and 1; the State Pension Credit Act 2002 (c. 16), Schedule 2; the National Insurance Contributions Act 2002 (c. 19), Schedule 1; the Income Tax (Earnings and Pensions) Act 2003 (c. 18), Schedule 6 and the Civil Partnership Act 2004 (c. 33), Schedule 24.

(64) 1973 c. 50; section 2 as substituted by the Employment Act 1988 (c. 19) was amended by the Employment Act 1989 (c. 38), Schedule 7. Subsections (3A) and (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47 in relation to Scotland only.

- (i) where the relevant income exceeds £25,645, no assistance is payable under regulation 87(1).
- (5) Where paragraph (4)(d) applies, the amount of assistance payable under regulation 87(1)(a) is determined by deducting from the maximum amount of assistance available under regulation 87(1) (a) one of the following amounts—
 - (a) £50 plus a further £1 for each complete £12, £9.75 or £7.61 by which the relevant income exceeds £15,345 according to whether the intensity of study is level 1, 2 or 3, respectively; or
 - (b) where the basic grant is greater than the actual fees, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between the basic grant and the actual fees (unless the amount is a negative number in which case the maximum amount of assistance available under regulation 87(1)(a) is payable).

Interpretation of regulation 88

- 89.**—(1) For the purposes of regulation 88—
- (a) subject to sub-paragraph (b), “partner” means any of the following—
 - (i) the spouse of an eligible part-time student;
 - (ii) the civil partner of an eligible part-time student;
 - (iii) a person ordinarily living with an eligible part-time student as if he were his spouse where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which he is being assessed for assistance and where he began the specified designated part-time course before 1st September 2005;
 - (iv) a person ordinarily living with an eligible part-time student as if he were his spouse or civil partner where an eligible part-time student begins the specified designated part-time course on or after 1st September 2005;
 - (b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—
 - (i) in the opinion of the Secretary of State, that person and the eligible part-time student are separated; or
 - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;
 - (c) “relevant income” has the meaning given in paragraph (2).
- (2) Subject to paragraph (3), an eligible part-time student’s relevant income is equal to his financial resources in the preceding financial year less—
- (i) £2,000 in respect of his partner;
 - (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his partner; and
 - (iii) £1,000 in respect of each other child who is dependent on the student or his partner.
- (3) Where the Secretary of State is satisfied that an eligible part-time student’s financial resources in the preceding financial year are greater than his financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, she may assess that student’s financial resources by reference to those resources in the current financial year.
- (4) In this regulation, an eligible part-time student’s financial resources in a financial year means the aggregate of his income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner.
- (5) In this regulation—

- (a) “child” in relation to an eligible part-time student includes any child of his partner and any child for whom he has parental responsibility;
- (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person is being assessed for assistance;
- (c) “dependent” means wholly or mainly financially dependent;
- (d) “financial year” means the period of twelve months for which the income of the eligible part-time student is computed for the purposes of the income tax legislation which applies to it;
- (e) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;
- (f) “preceding financial year” means the financial year immediately preceding the current financial year;
- (g) “specified designated part-time course” means the course in respect of which the person is applying for support or, where the student’s status as an eligible part-time student has been transferred to the current designated part-time course as a result of one or more transfers of that status by the Secretary of State from a part-time course (the “initial course”) in connection with which the Secretary of State determined the student to be an eligible part-time student pursuant to regulations made under section 22 of the 1998 Act, the specified designated part-time course is the initial course.

Assistance with fees in respect of attendance on a course in Wales, Northern Ireland or Scotland

90.—(1) The Secretary of State may pay support to assist with fees to an eligible part-time student in connection with his attendance on a designated part-time course in Wales, Northern Ireland or Scotland.

(2) The assistance paid under paragraph (1) must not exceed the lesser of—

- (a) the maximum amount of assistance that would have been payable to the eligible part-time student under regulation 87(1)(a) had he been undertaking the course in England; and
- (b) the maximum amount of support to assist with fees that in the opinion of the Secretary of State would have been payable to him according to whether he attends the designated part-time course in Wales, Northern Ireland or Scotland—
 - (i) pursuant to regulations made by the National Assembly for Wales under section 22 of the 1998 Act had he been ordinarily resident in Wales and undertaking the part-time course in Wales;
 - (ii) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998 had he been ordinarily resident in Northern Ireland and undertaking the part-time course in Northern Ireland; or
 - (iii) from funds of the Scottish Further and Higher Education Funding Council⁽⁶⁵⁾ had he been ordinarily resident in Scotland and undertaking the part-time course in Scotland.

Disabled part-time students' allowances

91.—(1) An eligible part-time student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Secretary of State is satisfied he is obliged to incur by

⁽⁶⁵⁾ This body was established under section 1 of the [Further and Higher Education \(Scotland\) Act 2005 \(2005 asp6\)](#).

reason of a disability to which he is subject in respect of his undertaking a designated part-time course (the “disabled part-time students' allowance”).

(2) An eligible part-time student does not qualify for the disabled part-time students' allowance if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.

(3) An eligible part-time student does not qualify for the disabled part-time students' allowance unless the Secretary of State considers that he is undertaking the designated course in the United Kingdom.

(4) Subject to the following paragraphs, the amount of disabled part-time students' allowance under this regulation is the amount that the Secretary of State considers appropriate in accordance with the student's circumstances.

(5) The amount of the disabled part-time students' allowance must not exceed—

- (a) £9,105 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £4,795 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
- (c) the additional expenditure incurred—
 - (i) within the United Kingdom for the purpose of attending the institution;
 - (ii) within or outside the United Kingdom for the purpose of attending, as a part of his course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
- (d) £1,200 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

Applications for support

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

(2) The application must be accompanied by—

- (a) a declaration completed by the academic authority; and
- (b) such additional documentation as the Secretary of State may require.

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

(4) The Secretary of State must notify the applicant of whether he qualifies for support and, if he does qualify, the amount of support payable in respect of the academic year, if any.

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

(6) The general rule does not apply where—

- (a) one of the events listed in paragraph 13 of regulation 84 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of six months beginning with the day on which the relevant event occurred;
- (b) the applicant is applying for the disabled part-time students' allowance, in which case the application must reach the Secretary of State as soon as is reasonably practicable; or

- (c) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as she specifies.

Declarations provided by academic authorities

93.—(1) Subject to paragraph (2), the appropriate academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Secretary of State to accompany the application for support.

(2) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(3) In this Part, “declaration” means—

- (a) where the applicant is applying for support in connection with the designated part-time course for the first time, a statement that—
 - (i) provides the course information; and
 - (ii) confirms that the applicant has undertaken at least two weeks of the designated part-time course;
- (b) in any other case, a statement that—
 - (i) provides the course information; and
 - (ii) confirms that the applicant has enrolled to undertake the academic year of the designated part-time course in respect of which he is applying for support.

(4) In this regulation, “course information” means—

- (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
- (b) the intensity of study; and
- (c) certification by the academic authority that it considers the course to be a designated part-time course.

Information

94. Schedule 3 deals with the provision of information.

Transfer of status

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

- (a) she receives a request from the eligible part-time student to do so;
 - (b) she is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
 - (c) the period of eligibility has not terminated.
- (2) The grounds for transfer are—
- (a) the eligible part-time student starts to undertake another designated part-time course at the institution;
 - (b) the eligible part-time student starts to undertake a designated part-time course at another institution; or
 - (c) after commencing a designated part-time course for a first degree (other than an honours degree) the eligible part-time student is, before the completion of that course, admitted

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

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

(4) The Secretary of State may re-assess the amount of support payable after the transfer.

(5) An eligible student who transfers under paragraph (1) after the Secretary of State has determined his support in connection with the academic year of the course from which he is transferring but before he completes that year may not apply for another grant under regulation 87(1) (b) or regulation 91 in connection with the academic year of the course to which he transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of assistance under regulation 87(1)(a) in respect of the academic years to and from which he transfers is the amount of assistance with fees available in connection with the course which has the highest intensity of study as defined in regulation 88.

Conversion of status

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

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

(2) Where, before completing the designated course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is to be treated as satisfying regulation 85(1)(b) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period normally required to complete the remainder of the designated course from which the student transfers.

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

- (a) where the Secretary of State has determined to pay an amount of disabled students' allowance to the student under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible part-time student;
- (b) the maximum amount of disabled part-time students' allowance to which the student would, apart from this regulation, be entitled in connection with his undertaking a designated part-time course in respect of that academic year is reduced by one third where the student became an eligible part-time student during the second quarter of the academic year and by two thirds where he became such a student in a later quarter of that year;
- (c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled part-time students' allowance payable to him for that purpose is reduced (or, where subparagraph (b) applies, further reduced) by the amount of grant paid to him for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and
- (d) where immediately before he became an eligible part-time student he was eligible to apply, but had not applied, for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum for which he was entitled, he may apply

for such a loan or such additional amount of loan as if he had continued to be an eligible student; and in the circumstances mentioned in paragraph (4) the maximum or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

(4) Where the request under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be) is reduced by two thirds, and where the request is made during the second quarter of that year that amount is reduced by one third.

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

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

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

- (a) where the Secretary of State has determined to pay an amount of disabled part-time students' allowance to the student in periodic instalments no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;
- (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which he may be entitled in respect of that year under Parts 4 to 6;
- (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he became such a student in a later quarter of that year; and
- (d) where an amount of grant for disabled part-time students' living costs for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable to him under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled part-time students' allowance paid to him for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

Payment of grants for books, travel and other expenditure and disabled part-time students' allowances

97.—(1) Payments of the grant for books, travel and other expenditure and the disabled part-time students' allowance may be made in such manner as the Secretary of State considers appropriate and she may make it a condition of entitlement to payment that the eligible part-time student must provide her with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Secretary of State cannot make a final assessment on the basis of the information provided by the student, she may make a provisional assessment and payment of the grant for books, travel and other expenditure and the disabled part-time students' allowance.

(3) The Secretary of State may pay the grant for books, travel and other expenditure and the disabled part-time students' allowance in instalments.

(4) Subject to paragraph (5), the Secretary of State may pay the grant for books, travel and other expenditure and the disabled part-time students' allowance at such times as she considers appropriate.

(5) The Secretary of State must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the disabled part-time students' allowance before she has received a declaration under regulation 93 unless an exception applies.

(6) An exception applies if—

- (a) a disabled part-time students' allowance is payable in which case that particular grant may be paid before the Secretary of State has received a declaration;
- (b) the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

Payment of grants for fees

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

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

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

Overpayments

99.—(1) Any overpayment of a grant in respect of fees is recoverable by the Secretary of State from the academic authority.

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

(3) The Secretary of State must recover an overpayment of grant for books, travel and other expenditure and disabled part-time students' allowance unless she considers that it is not appropriate to do so.

(4) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
- (b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(5) A payment of the disabled part-time students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(6) The “relevant date” is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances in paragraph (8) or (9), there is an overpayment of the disabled part-time students' allowance unless the Secretary of State decides otherwise.

(8) The circumstances are—

- (a) the Secretary of State applies all or part of the disabled part-time students' allowance to the purchase of specialist equipment on behalf of the eligible part-time student;
- (b) the student withdraws from, abandons or is expelled from the course after the relevant date; and

- (c) the equipment has not been delivered to the student before he withdraws from, abandons or is expelled from the course.
- (9) The circumstances are—
 - (a) the eligible part-time student withdraws from, abandons or is expelled from the course after the relevant date;
 - (b) a payment of the disabled part-time students' allowance in respect of specialist equipment is made to the student after he withdraws from, abandons or is expelled from the course.
- (10) Where there is an overpayment of the disabled part-time students' allowance, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if she considers it is appropriate to do so.

PART 11

SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

Eligible postgraduate students

100.—(1) An eligible postgraduate student qualifies, subject to and in accordance with this Part, for a grant to assist with the additional expenditure which the Secretary of State is satisfied he is obliged to incur by reason of a disability to which he is subject in respect of his undertaking a designated postgraduate course.

(2) Subject to paragraph (4), a person is an eligible postgraduate student in connection with a designated postgraduate course if he satisfies the conditions in paragraph (3).

- (3) The conditions are—
 - (a) the Secretary of State has determined in connection with the designated postgraduate course that the person falls within one of the categories set out in Part 2 of Schedule 1; and
 - (b) the Secretary of State is satisfied that, by reason of a disability to which the person is subject, he will be obliged to incur additional expenditure in respect of his undertaking the course.
- (4) A person is not an eligible postgraduate student if—
 - (a) there has been bestowed on him or paid to him in connection with the course—
 - (i) a healthcare bursary;
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992⁽⁶⁶⁾;
 - (iii) any allowance, bursary or award of similar description made by a Research Council;
 - (iv) any allowance, bursary or award of similar description made by his institution which includes any payment for the purpose of meeting additional expenditure incurred by the student by reason of his disability; or
 - (v) any allowance, bursary or award of similar description made under section 67(4)(a) of the Care Standards Act 2000⁽⁶⁷⁾ which includes payment for meeting additional expenditure incurred by the student by reason of his disability;
 - (b) he is in breach of an obligation to repay any loan;
 - (c) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18; or

⁽⁶⁶⁾ S.I. 1992/580, amended by S.S.I. 2002/423 and S.S.I. 2003/401.

⁽⁶⁷⁾ 2000 c. 14.

- (d) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.
- (5) For the purposes of paragraphs (4)(b) and (4)(c), “loan” means a loan made under the student loans legislation.
- (6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (4)(c) only applies if the agreement was made—
 - (a) before 25th September 1991; and
 - (b) with the concurrence of the borrower’s curator or at a time when he had no curator.
- (7) An eligible postgraduate student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.
- (8) An eligible postgraduate student does not qualify for a grant under this Part unless the Secretary of State considers that he is undertaking his course in the United Kingdom.
- (9) Despite paragraphs (3)(a) and (4), a person is an eligible postgraduate student for the purposes of this Part if he satisfies the conditions in paragraph (3)(b) and in paragraph (10) or (11).
- (10) The conditions are—
 - (a) the person qualified as an eligible postgraduate student in connection with an earlier academic year of the current designated postgraduate course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (b) the person was not ordinarily resident in Wales on the first day of the first academic year of the current designated postgraduate course; and
 - (c) the person’s status as an eligible postgraduate student has not terminated.
- (11) The conditions are—
 - (a) the Secretary of State has previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the current designated postgraduate course;
 - (b) the student’s status as an eligible postgraduate student in connection with the course referred to in sub-paragraph (a) has been transferred from that course to the current designated postgraduate course as a result of one or more transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (c) the person was not ordinarily resident in Wales on the first day of the academic year of the course referred to in sub-paragraph (a); and
 - (d) the person’s status as an eligible postgraduate student has not terminated.
- (12) An eligible postgraduate student may not, at any one time, qualify for support for—
 - (a) more than one designated postgraduate course;
 - (b) a designated postgraduate course and a designated course;
 - (c) a designated postgraduate course and a designated part-time course.
- (13) Where one of the events listed in paragraph (14) occurs in the course of an academic year—
 - (a) a student may qualify for a grant under this Part in respect of that academic year in accordance with this Part; and
 - (b) a grant of the kind available under this Part is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (14) The events are—
 - (a) the student’s course becomes a designated postgraduate course;

- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence as defined in Part 1 of Schedule 1;
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (f) the student becomes the child of a Swiss national.

Designated postgraduate courses

101.—(1) A postgraduate course is designated for the purposes of section 22(1) of the 1998 Act and regulation 100 if—

- (a) it is a course for entry to which a first degree (or equivalent qualification) or higher is normally required;
- (b) it is a course—
 - (i) of at least one academic year’s duration; and
 - (ii) in the case of a part-time course, the duration of which does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
- (c) it is wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not a course for the initial training of teachers or a course taken as part of an employment-based teacher training scheme.

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

- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not it has entered an agreement with the student to provide the course;
- (b) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
- (c) an institution is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992⁽⁶⁸⁾.

(3) For the purposes of section 22 of the 1998 Act and regulation 100, the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

102.—(1) An eligible postgraduate student retains his status as an eligible postgraduate student in connection with a designated postgraduate course until the status is terminated in accordance with this regulation.

(2) The period for which an eligible postgraduate student retains the status is the “period of eligibility”.

⁽⁶⁸⁾ 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(3) Subject to the following paragraphs, the period of eligibility terminates at the end of the period ordinarily required for the completion of the designated postgraduate course.

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

(a) withdraws from his designated postgraduate course in circumstances where the Secretary of State has not transferred or will not transfer his status as an eligible postgraduate student to another course under regulation 103; or

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

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

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

(a) terminate the period of eligibility;

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

(c) treat any support paid to the student as an overpayment which may be recovered under regulation 108.

(7) Where the period of eligibility terminates on or before the expiry of the period ordinarily required for the completion of the designated postgraduate course, the Secretary of State may, at any time, renew the period of eligibility for such period as she determines.

Transfer of status

103.—(1) Where an eligible postgraduate student transfers to another postgraduate course, the Secretary of State must transfer the student's status as an eligible postgraduate student to that course where—

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

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

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

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

(b) the eligible postgraduate student starts to undertake a designated postgraduate course at another institution.

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

(4) The Secretary of State may re-assess the amount of support payable after the transfer.

(5) An eligible student who transfers under paragraph (1) after the Secretary of State has determined his support in connection with the academic year of the course from which he is transferring but before he completes that year may not apply for another grant under this Part in connection with the academic year of the course to which he transfers.

Applications for support

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

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

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

(4) The Secretary of State must notify the applicant—

- (a) whether he qualifies for a grant;
- (b) if he does qualify, the amount payable in respect of the academic year, if any; and
- (c) how that amount is allocated between the types of eligible expenditure.

Information

105. Schedule 3 deals with the provision of information.

Amount of grants

106.—(1) Subject to paragraph (2), the grant under this Part is such amount as the Secretary of State considers appropriate to assist with one or more types of eligible expenditure.

(2) The grant must not exceed £5,780 in respect of an academic year.

(3) For the purposes of this Part, the “types of eligible expenditure” are—

- (a) expenditure on a non-medical helper;
- (b) expenditure on major items of specialist equipment; and
- (c) additional expenditure incurred—
 - (i) within the United Kingdom for the purpose of attending the institution;
 - (ii) within or outside the United Kingdom for the purpose of attending, as part of the course, any period of study at an overseas institution or for the purposes of attending the British Institute in Paris.

Payment of grants

107.—(1) The Secretary of State may pay a grant for which a student qualifies under this Part in such instalments (if any) and at such times as she considers appropriate and in the exercise of her functions under this Part she may make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

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

Overpayments

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

(2) The Secretary of State must recover an overpayment of grant under this Part unless she considers it is not appropriate to do so.

(3) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
- (b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(4) A payment of grant under this Part made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(5) In this regulation, the “relevant date” is the date on which the first term of the academic year in question actually begins.

(6) In the circumstances in paragraphs (7) and (8), there is an overpayment of grant under this Part unless the Secretary of State decides otherwise.

(7) The circumstances are—

- (a) the Secretary of State applies all or part of the grant under this Part to the purchase of specialist equipment on behalf of the eligible postgraduate student;
- (b) the student withdraws from, abandons or is expelled from the course after the relevant date; and
- (c) the equipment has not been delivered to the student before he withdraws from, abandons or is expelled from the course.

(8) The circumstances are—

- (a) the eligible postgraduate student withdraws from, abandons or is expelled from the course after the relevant date; and
- (b) a payment of grant under this Part in respect of specialist equipment is made to the student after he withdraws from, abandons or is expelled from the course.

(9) Where there is an overpayment of the grant under this Part, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if she considers it is appropriate to do so.

23rd January 2006

Bill Rammell
Minister of State
Department for Education and Skills

SCHEDULE 1

Regulations 4, 84 and 100

ELIGIBLE STUDENTS

PART 1

Interpretation

1.—(1) For the purposes of this Schedule—

“Directive 2004/38” means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004⁽⁶⁹⁾ on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EC national” means a national of a Member State of the European Community;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽⁷⁰⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁷¹⁾;

“EEA frontier self-employed person” means an EEA national who—

- (a) is a self-employed person in England; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” means an EEA national who—

- (a) is a worker in England; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” means a Member State of the European Economic Area;

“employed person” means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“European Economic Area” means the area comprised by the European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“family member” means—

- (a) in relation a national of the United Kingdom who has exercised a right of free movement under article 39 or 43 of the Treaty establishing the European Community or an equivalent right under the EEA Agreement or the Swiss Agreement and is entitled, by virtue of an enforceable Community right, to be treated no less favourably in relation to student support than he would have been had he not exercised that right, an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—

⁽⁶⁹⁾ OJ L158, 30.04.2004, p77-123.

⁽⁷⁰⁾ Cm. 2073.

⁽⁷¹⁾ Cm. 2183.

- (i) his spouse or civil partner;
- (ii) his child or the child of his spouse or civil partner; or
- (iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
 - (i) his spouse or civil partner; or
 - (ii) his child or the child of his spouse or civil partner;
- (c) in relation to an EC national who is not self sufficient—
 - (i) his spouse or civil partner; or
 - (ii) direct descendants of his or of his spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or his spouse or civil partner;
- (d) in relation to an EC national who is self-sufficient—
 - (i) his spouse or civil partner;
 - (ii) direct descendants of his or of his spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependents of his or his spouse; or
 - (iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;

“person with leave to enter or remain” means a person who—

- (a) has been informed by a person acting under the authority of the Secretary of the State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom;
- (b) has been granted leave to enter or to remain accordingly; and
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remain;

“right of permanent residence” means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“self-sufficient” means self-sufficient within the meaning of Article 7(1)(b) of Directive 2004/38;

“settled” has the meaning given by section 33(2A) of the Immigration Act 1971(72);

“Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999(73) and which came into force on 1st June 2002;

(72) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

(73) Cm. 4904.

Status: This is the original version (as it was originally made).

“Swiss employed person” means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” means a Swiss national who—

- (a) is an employed person in England; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” means a Swiss national who—

- (a) is a self-employed person in England; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom

“worker” means a worker within the meaning of article 7 of Directive 2004/38;

(2) For the purposes of this Schedule, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly.

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

- (a) the current course; or
- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the current course,

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

(4) For the purposes of this Schedule, including the purpose of determining whether a person is settled in the United Kingdom, a person is to be treated as ordinarily resident in England, the United Kingdom and Islands or in the territory comprising the European Economic Area and Switzerland if he would have been so resident but for the fact that—

- (a) he;
- (b) his spouse or civil partner;
- (c) his parent; or
- (d) in the case of a dependent directive relative in the ascending line, his child or child’s spouse or civil partner,

is or was temporarily employed outside England, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(5) For the purposes of sub-paragraph (4), temporary employment outside of England, the United Kingdom and Islands or the territory comprising the European Economic Area and Switzerland includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside of the territory comprising the European Economic Area and Switzerland as members of such forces.

(6) For the purposes of this Schedule—

- (a) an area which—
 - (i) was previously not part of the European Community or the European Economic Area; but
 - (ii) at any time before or after these Regulations come into force has become part of one or other or both of these areas,is to be considered to have always been a part of the European Economic Area;
- (b) a person who acquires the right of permanent residence after the first day of the first academic year of the course is to be considered to have had that status as of the first day of the first academic year of the course; and
- (c) a person who becomes the child of a Swiss national after the first day of the first academic year of the course is to be considered to have been such a child as of the first day of the first academic year of the course.

PART 2

Categories

Persons who are settled in the United Kingdom

- 2.—(1) A person who on the first day of the first academic year of the course—
 - (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
 - (b) is ordinarily resident in England;
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
 - (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).
- 3.—(1) A person who on the first day of the first academic year of the course—
 - (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
 - (b) is ordinarily resident in England;
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
 - (d) in a case where his residence leading to the acquisition of the right of permanent residence was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the start of that period of residence.

Refugees and persons with leave to enter or remain

- 4. A person who—
 - (a) is either—

Status: This is the original version (as it was originally made).

- (i) 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
 - (ii) the spouse, civil partner, child or step-child of a person mentioned in paragraph (i);
and
 - (b) is ordinarily resident in England on the first day of the first academic year of the course.
5. A person who—
- (a) is either—
 - (i) a person with leave to enter or remain; or
 - (ii) the spouse, civil partner, child or step-child of a person with leave to enter or remain;
 - (b) is ordinarily resident in England on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

Workers, employed persons, self-employed persons and their family members

- 6.—(1) A person who—
- (a) is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in paragraph (iv) or (v);
 - (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who—
- (a) is ordinarily resident in England on the first day of the first academic year of the course;
 - (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
 - (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers⁽⁷⁴⁾, as extended by the EEA Agreement.

- 8.—(1) A person who—
- (a) is—

⁽⁷⁴⁾ OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

- (i) a national of the United Kingdom who has exercised a right of free movement within the territory comprising the European Economic Area and Switzerland and is entitled, by virtue of an enforceable Community right, to be treated no less favourably in relation to student support than he would have been treated had he not exercised that right of free movement; or
 - (ii) a family member of a person mentioned in paragraph (i);
 - (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.
- (2) A person who is not ordinarily resident in England on the first day of the first academic year of the course may be treated as satisfying paragraph (b) of sub-paragraph (1) if the Secretary of State is satisfied that the person—
- (a) is not so resident for a reason connected with the exercise of the right of free movement referred to in paragraph (a)(i) of sub-paragraph (1); but
 - (b) is ordinarily resident in England on the day on which the first term of the first academic year of the course actually begins.
- (3) For the purposes of this paragraph “right of free movement” means a right of free movement under Article 39 or 43 of the Treaty establishing the European Community or an equivalent right under the EEA Agreement or the Swiss Agreement.

EC nationals

- 9.**—(1) A person who on the first day of the first academic year of the course—
- (a) is an EC national or a family member of a such a national;
 - (b) is—
 - (i) attending a designated course in England; or
 - (ii) undertaking a designated part-time course or a designated postgraduate course in England;
 - (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
 - (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.
- (2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph (1)(4).
- 10.** A person who on the first day of the first academic year of the course—
- (a) is an EC national;
 - (b) is ordinarily resident in England;
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
 - (d) where he is a national of the United Kingdom, has a right to be treated no less favourably than a national of another Member State by virtue of having exercised a Community right

Status: This is the original version (as it was originally made).

of free movement or an equivalent right under the EEA Agreement or Swiss Agreement; and

- (e) in a case where his ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

Children of Swiss nationals

11. A person who on the first day of the first academic year of the course—
 - (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
 - (b) is ordinarily resident in England;
 - (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
 - (d) in a case where his ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

SCHEDULE 2

Regulations 5(1) and 85(1)

DESIGNATED COURSES

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

Regulations 10, 94 and 105

INFORMATION

1. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must, as soon as reasonably practicable after he is requested to do so, provide the Secretary of State with such information as the Secretary of State considers she requires for the purposes of these Regulations.

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

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

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

SCHEDULE 4

Regulations 27, 28 and 73

FINANCIAL ASSESSMENT

Definitions

1. In this Schedule:—

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

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

Independent eligible student

- 2.—(1) An independent eligible student is an eligible student where—
- (a) he is aged 25 or over on the first day of the relevant year;
 - (b) he is married or is in a civil partnership before the beginning of the relevant year, whether or not the marriage or civil partnership is still subsisting;
 - (c) he has no parent living;
 - (d) the Secretary of State is satisfied that neither of his parents can be found or that it is not reasonably practicable to get in touch with either of them;
 - (e) he has communicated with neither of his parents for the period of one year before the beginning of the relevant year or, in the opinion of the Secretary of State, he can demonstrate on other grounds that he is irreconcilably estranged from his parents;

- (f) he has been provided with accommodation by, or he has pursuant to an order of a competent court been in the custody or care of, any legal person who is not the student's parent throughout any three-month period ending on or after the date on which he attains the age of 16 and before the first day of his course ("the relevant period") (provided that he has not in fact at any time during the relevant period been under the charge or control of his parents);
 - (g) his parents are residing outside the European Community and the Secretary of State is satisfied that either—
 - (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or
 - (ii) it would not be reasonably practicable for those parents as a result of the calculation of any contribution under paragraph 8 or 9 to send any relevant funds to the United Kingdom;
 - (h) paragraph 5(9) applies and the parent whom the Secretary of State considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);
 - (i) he is a member of a religious order who resides in a house of that order;
 - (j) as at the first day of the relevant year, he has the care of a person under the age of 18; or
 - (k) he has supported himself out of his earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph he is to be treated as supporting himself out of his earnings during any period in which—
 - (i) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local ("a relevant authority");
 - (ii) he was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
 - (iii) he was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
 - (iv) he held a State Studentship or comparable award; or
 - (v) he received any pension, allowance or other benefit paid by any person by reason of a disability to which he is subject, or by reason of confinement, injury or sickness.
- (2) An eligible student who qualifies as an independent eligible student under paragraph 2(1) (j) in respect of an academic year of a designated course retains that status for the duration of the period of eligibility.

Household income

- 3.—(1) The amount of an eligible student's contribution depends on the household income.
- (2) The household income is—
- (a) in the case of an eligible student who is not an independent eligible student, the residual income of the eligible student aggregated with the residual income of the eligible student's parents (subject to paragraph 5(9)) and—
 - (i) in the case of a new eligible student who began his specified designated course before 1st September 2005, the residual income of the partner (other than a partner within the meaning of paragraph 1(j)(iv)) of the student's parent (provided that the Secretary of State has selected that parent under paragraph 5(9)); or

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- (ii) in the case of a new eligible student who began his specified designated course on or after 1st September 2005, the residual income of the partner of the student's parent (provided that the Secretary of State has selected that parent under paragraph 5(9));
 - (b) in the case of an independent eligible student who has a partner, the residual income of the eligible student aggregated with the residual income of the eligible student's partner (subject to sub-paragraph (4)); or
 - (c) in the case of an independent eligible student who does not have a partner, the residual income of the eligible student.
- (3) In determining the household income under sub-paragraph (2), there is deducted the sum of £1,050—
- (a) for each child wholly or mainly financially dependent on the eligible student or the eligible student's partner; or
 - (b) for each child other than the eligible student wholly or mainly financially dependent on the eligible student's parent or the eligible student's parent's partner whose residual income is being taken into account.
- (4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner must not be aggregated under paragraph (b) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

Calculation of eligible student's residual income

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

- (a) any remuneration for work done during any academic year of the eligible student's course, provided that such remuneration does not include any sums paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988⁽⁷⁵⁾ or under section 188 of the Finance Act 2004⁽⁷⁶⁾, or where the eligible student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 1 into which an eligible student falls is paragraph 9 and his income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Schedule 1, his income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

⁽⁷⁵⁾ 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10 and the Income Tax (Trading and other Income) Act 2005, Schedule 1. Amendments to section 273 made by the Finance Act 2004 (c. 12), section 281 and Schedule 35 do not come into force until 6th April 2006. Sections 619 and 639 are repealed by the Finance Act 2004, section 326 and Schedule 42 with effect from 6th April 2006 subject to the transitional provisions and savings in Schedule 36 to the Finance Act 2004.

⁽⁷⁶⁾ 2004 c. 12.

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

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives;
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics⁽⁷⁷⁾.

Calculation of parent's residual income

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

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

must not be made or permitted.

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

- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988 or under section 188 of the Finance Act 2004, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph (6) any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums so deducted do not exceed the deductions which would be made if the whole of the eligible student's parent's income were in fact income for the purposes of the Income Tax Acts;
- (c) in the case of a parent student or an eligible student's parent who holds a statutory award, £1,050.

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

(4) Where the Secretary of State is satisfied that the income of the parent in any financial year is, as a result of any event, likely to be and to continue after that year to be not more than 85 per cent. of the sterling value of his income in the previous financial year she may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his residual income for each of the financial years in which that academic year falls.

(77) "Financial Statistics" (ISSN 0015-203X).

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(5) Where the eligible student's parent satisfies the Secretary of State that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then any reference in this Schedule to a preceding financial year means the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

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

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

his taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of his income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

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

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

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

(9) Where the Secretary of State determines that the parents are separated for the duration of the relevant year, the household income is determined by reference to the income of whichever parent the Secretary of State considers the more appropriate under the circumstances.

(10) Where the Secretary of State determines that the parents have separated in the course of the relevant year, the household income is determined by reference to the aggregate of—

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (9), being the proportion in respect of that part of the relevant year during which the parents are separated; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

Calculation of eligible student's partner's residual income

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

(2) Where the Secretary of State determines that the eligible student and his partner are separated for the duration of the relevant year, the partner's income is not taken into account in determining the household income.

(3) Where the Secretary of State determines that the eligible student and his partner have separated in the course of the relevant year, the partner's income is determined by reference to his income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Secretary of State determines that the eligible student and his partner are not separated.

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

Calculation of parent's partner's residual income

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

Calculation of contribution – old system students

8.—(1) The contribution payable in relation to an old system student who is not an independent eligible student or is an independent eligible student with a partner is—

- (a) in any case where the household income is £22,560 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £22,560; and
- (b) in any case where the household income is less than £22,560, nil.

(2) The contribution payable in relation to an old system student who is an independent eligible student without a partner is—

- (a) in any case where the household income is £10,505 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £10,505; and
- (b) in any case where the household income is less than £10,505, nil.

(3) The amount of the contribution payable under sub-paragraph (1) or (2) must in no case exceed £7,430.

(4) The contribution may be adjusted in accordance with paragraph 10 or 11.

(5) Where sub-paragraph (6) applies, the aggregate contributions must not exceed £7,430.

(6) This sub-paragraph applies where—

- (a) a contribution is payable in relation to two or more eligible students (other than new system students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or
- (b) the household income consists of the residual income of an independent eligible student and his partner where both hold a statutory award.

Calculation of contribution – new system students

9.—(1) In relation to an eligible student who is a new system student, the contribution payable is—

- (a) in any case where the household income exceeds £37,900, £1 for every complete £9.50 by which the household income exceeds £37,900; and
 - (b) in any case where the household income is £37,900 or less, nil.
- (2) The contribution must not in any case exceed £5,770.
- (3) The contribution may be adjusted in accordance with paragraph 10 or 11.
- (4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £5,770.
- (5) This sub-paragraph applies where—
- (a) a contribution is payable in relation to two or more eligible students (other than old system students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or
 - (b) the household income consists of the residual income of an independent eligible student and his partner where both hold a statutory award.

Split contributions – eligible students who are not independent

10.—(1) This paragraph applies where a contribution is payable in relation to an eligible student who is not an independent eligible student.

(2) Sub-paragraphs (3) to (7) apply where the children who are eligible students are either all old system students or are all new system students.

(3) For any year in which a statutory award other than an award referred to in sub-paragraph (4) is held by—

- (i) more than one child of the eligible student's parents;
- (ii) the eligible student's parent; or
- (iii) the eligible student's parent's partner,

the contribution payable in respect of the eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Secretary of State after consultation with any other authority involved considers just taking into account the application of paragraph 7 of this Schedule to new eligible students and existing students respectively.

(4) Subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003⁽⁷⁸⁾ or section 63 of the Health Services and Public Health Act 1968⁽⁷⁹⁾ (and no other statutory award) is held by more than one child of the eligible student's parents, the contribution payable in respect of the eligible student is

⁽⁷⁸⁾ S.I. 2003/1994, amended by S.I. 2004/1038, S.I. 2004/1792, S.I. 2005/2083 and S.I. 2005/3137.

⁽⁷⁹⁾ 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (S.I. 1996/1008), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.

an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of children who hold a relevant statutory award.

(5) If, as a result of the apportionment under sub-paragraph (4), the contribution would not be extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is instead applied—

- (i) first in relation to the smallest statutory award (or each such statutory award) to which the contribution may apply; and
- (ii) then, in increasing order of size, in relation to each remaining statutory award to which the contribution may apply, until the balance of the contribution can be apportioned equally without any part of it remaining or until there remains no part of any statutory award to which the contribution has not been applied.

(6) Where—

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

the contribution in respect of each eligible student is calculated under sub-paragraph (7).

(7) Where sub-paragraph (6) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (b) of sub-paragraph (6) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory award of the eligible students in his relevant household.

(8) Where—

- (a) a contribution taking into account the residual income of the parent of an eligible student is payable in relation to more than one eligible student who is the child of that parent or of the parent's partner; and
- (b) the amount payable in relation to each eligible student is not the same in every case because some of the eligible students are old system students and some are new system students,

the contribution in respect of an eligible student is calculated under sub-paragraph (9).

(9) Where sub-paragraph (8) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (a) of sub-paragraph (8) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory awards of the other old system students where the eligible student is an old system student and to the relevant statutory awards of the other new system students where the eligible student is a new system student.

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

- (a) the contribution in respect of the eligible student is calculated without reference to paragraph 4 but otherwise in accordance with this Schedule and is apportioned between each eligible student in accordance with this paragraph;
- (b) there is then applied in addition in respect of the eligible student a further contribution of £1 for every complete £9.50 by which the sum calculated in respect of the student under

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paragraph (c) of this sub-paragraph exceeds £22,560 where the student is an old system student or exceeds £37,900 where the student is a new system student;

- (c) the sum referred to in paragraph (b) of this sub-paragraph is the aggregate of any amounts calculated under paragraphs 4, 5 and 7 (where appropriate) of this Schedule with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 5 and 7 exceeds £22,560 where the student is an old system student or exceeds £37,900 where the student is a new system student.

(11) Subject to sub-paragraph (12), there is added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining—

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

(12) Where a parent student has a partner within paragraph 1(j) of this Schedule, the sums added to his residual income under sub-paragraph (11) of this paragraph are calculated as though the contribution in respect of his children had been assessed taking into account the income of the parent's partner under paragraph 7, whether or not the contribution was actually calculated on that basis.

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

Split contributions – independent eligible students

11.—(1) Where a contribution is payable under paragraph 8 or 9 in relation to an independent eligible student with a partner, the contribution is payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in paragraph (b) of this sub-paragraph is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Secretary of State after consultation with any other authority involved considers just;
- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003 or section 63 of the Health Services and Public Health Act 1968 (and no other statutory award) is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is an amount equal to half the contribution calculated under paragraph 8 or 9;
- (c) if, as a result of the apportionment under paragraph (b) of this sub-paragraph, the contribution calculated would not be extinguished by applying it in respect of the independent eligible student's statutory award, the remainder of the contribution is instead applied to the relevant statutory award of his partner if they are both old system students or if they are both new system students.

(2) Subject to sub-paragraph (3), there is added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or

- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this Schedule.
- (3) Where a parent student has a partner who is also an eligible student and whose income is taken into account in assessing the contribution in relation to the children in sub-paragraph (2), half of the sum calculated under sub-paragraph (2) is added to the parent student's residual income.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for support for students taking designated higher education courses in respect of an academic year beginning on or after 1st September 2006.

These Regulations revoke the Education (Student Support) Regulations 2005, the Education (Student Support) (Amendment) Regulations 2005 and the Education (Student Support) (Amendment) (No. 2) Regulations 2005. Regulation 3 sets out the extent of the revocation.

These Regulations are based on the Education (Student Support) Regulations 2005 (as amended) (the "2005 Regulations") to which they make a number of amendments some of which are minor and drafting amendments. Changes of substance other than increases in rates of grants and loans are described below.

Two main categories of students are recognised under these Regulations, "new system students" and "old system students" (regulation 2). A new system student is a student starting a full-time designated course on or after 1st September 2006, subject to certain exceptions. An old system student is a student who is continuing on a course that he started before 1st September 2006, subject to certain exceptions. The support available under these Regulations depends on whether a student is categorised as a new system student or an old system student.

As a result of the transfer of certain student support functions of the Secretary of State to the National Assembly for Wales under the Higher Education Act 2004, students who were ordinarily resident in Wales on the first day of the first academic year of their course do not qualify for support under these Regulations (regulations 4, 84 and 100 and Schedule 1).

Part 4 of these Regulations provides for fee support for eligible students taking designated full-time courses. New system students are eligible for a fee loan (regulation 11 and Chapter 2 of Part 4) and old system students are eligible for a grant for fees and fee contribution loan (regulation 12 and Chapters 3 and 4 of Part 4). Part 4 sets out the circumstances in which a new system student and an old system student qualify for fee support including new provisions as to the effect of having taken a previous higher education course on current entitlement.

Part 5 of these Regulations provides for grants for living and other costs for eligible students taking designated full-time courses. The grant for students who left care which was available under the 2005 Regulations is no longer available under these Regulations. A maintenance grant is available in accordance with regulation 48 to new system students. A special support grant is available in accordance with regulation 50 to new system students who are or may be eligible for certain types of social security benefits. A new system student who qualifies for a special support grant does not qualify for a maintenance grant.

Part 6 of these Regulations provides for loans for living costs for eligible students taking designated full-time courses. The age limit for qualifying for a loan for living costs is raised to 60. Part 6 and

regulation 77 in Part 8 set out the circumstances in which the amount of loan for living costs available to a new system student is reduced because of the amount of maintenance grant that is payable.

Part 9 of these Regulations deals with payment of support in connection with a full-time designated course and recovery of overpayments. Under regulation 80, the Secretary of State may request information from an applicant that is needed to assist with the recovery of a loan and may withhold payment of the loan until that information is supplied. Under regulation 81, an institution is required to send the Secretary of State an attendance confirmation in respect of an eligible student. The Secretary of State may not make a payment of a grant for living and other costs or a loan for living costs without having received the confirmation, subject to certain exceptions. Regulation 83 makes new provision for the recovery of overpayments of grants for living and other costs when the eligible student withdraws from the course after support has been paid.

These Regulations make disabled students who are undertaking a designated full-time course but who are unable to attend for a reason relating to their disability eligible for fee support, the loan for living costs, the grant for dependants and the higher education grant or the maintenance grant or special support grant.

Part 10 of these Regulations provides for support for designated part-time courses. Under a new regulation (regulation 90), the Secretary of State may make fee support available to eligible part-time students who attend a designated part-time course in Wales, Northern Ireland or Scotland. Regulation 93 introduces a new procedure for applying for support for part-time courses which requires the institution providing the course to provide a declaration to accompany a student's application for support which provides details about the course and confirms that the student has undertaken at least two weeks of the course or has enrolled to undertake the course. Regulation 97 provides that, subject to certain exceptions, the Secretary of State must not pay support for part-time courses (other than fee support) until she has received the declaration. Regulation 99 makes new provision for the recovery of overpayments of grants (other than fee grants) when the student withdraws from the course after support has been paid.

Part 11 of these Regulations provides for a grant to help disabled postgraduate students with the additional expenditure that they incur as a result of their disability. Regulation 108 makes new provision for the recovery of overpayments of the grant when the student withdraws from the course after support has been paid.

These regulations implement the provisions of Directive [2004/38/EC](#) of the European Parliament and of the Council of 29th April 2004 (OJ L158, 30.04.2004, p77-123) on the rights of citizens of the Union and their family members to move and reside freely in the territory of the member states so far as the Directive relates to student support. Certain categories of person who were not formerly eligible for student support will be eligible as a result of the Directive. To qualify for support under these Regulations, a student must fall within one of the categories set out in Part 2 of Schedule 1. Schedule 1 has been amended to include the categories of person who are eligible for student support as a result of the Directive. Consequential changes have been made in regulations 13, 14, 37, 64, 84 and 100. A copy of the Transposition Note in relation to the implementation of the Directive so far as it relates to student support is available from the Department for Education and Skills, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT or on the website of the Office of Public Sector Information at www.opsi.gov.uk. A copy has also been placed in the library of each House of Parliament.

Schedule 4 sets out the method for calculating the household income of a student taking a designated full-time course. A contribution from the student is calculated on the basis of the household income. The contribution is applied to reduce some types of support available to the student. A new provision has been added which deals with the calculation of a new system student's contribution (paragraph 9). If an eligible student is deemed to be independent, the income of his parents is not taken into account in calculating his household income. A new ground on which an eligible student is deemed to be independent is added in paragraph 2 of Schedule 4. An eligible student is now independent if he has the care of a child on the first day of the academic year. Schedule 4 also sets out how the

contribution from a student is calculated if more than one person from his household is applying for support. Paragraph 10 of Schedule 4 has been amended to cover the calculation of the contribution where one student in the household is an old system student and one is a new system student.

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