

This Statutory Instrument has been made to correct provisions in S.I. 2008/529 and 1582 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2008 No. 2094

EDUCATION, ENGLAND

The Education (Student Support) (Amendment) (No. 2) Regulations 2008

Made - - - - *31st July 2008*
Laid before Parliament *8th August 2008*
Coming into force in accordance with regulation 1

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

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Education (Student Support)(Amendment) (No. 2) Regulations 2008.

(2) Paragraph (1) and this paragraph, regulation 2 and Schedule 1 (except paragraphs 5, 6, 7 and 8) come into force on the 22nd day after these Regulations are laid before Parliament.

(3) The provisions of these Regulations other than those referred to in paragraphs (2) and (4) come into force on 1st September 2008.

(4) Paragraphs 5, 6, 7 and 8 of Schedule 1 and paragraphs 7, 8, 13 and 14 of Schedule 2 come into force on 27th October 2008.

(5) These Regulations apply in relation to England (2).

(6) In these Regulations, “the 2008 Regulations” means the Education (Student Support) Regulation 2008(3) and “the 2008 (No.2) Regulations” means the Education (Student Support) (No.2) Regulations 2008(4).

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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. See section 43(1) of the 1998 Act for the definition of “prescribed” and “regulations”.
- (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 Welsh Ministers 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) S.I. 2008/529, amended by S.I. 2008/1582.

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Amendment of the 2008 Regulations

2. The 2008 Regulations are amended in accordance with Schedule 1.

Amendment of the 2008 (No.2) Regulations

3. The 2008 (No.2) Regulations are amended in accordance with Schedule 2.

31st July 2008

Bill Rammell
Minister of State
Department for Innovation, Universities and
Skills

SCHEDULE 1

Regulation 2

AMENDMENT OF THE 2008 REGULATIONS

Amendment of regulation 65

1. In regulation 65(1) (a), after “regulation 66” insert “or 66A”.

Amendment of regulation 66

2. For regulation 66, substitute—

“2008 cohort students with full entitlement except type 1 and type 2 teacher training students

66.—(1) This regulation applies to a 2008 cohort student with full entitlement except a type 1 or a type 2 teacher training student.

(2) Subject to Chapter 4 of this Part, where the student’s household income exceeds £61,061, 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 intensive course is equal to $X-Y$ where—

X is—

- (i) for a student in category A, £3,580;
- (ii) for a student in category B, £6,475;
- (iii) for a student in category C, £5,510;
- (iv) for a student in category D, £4,625;

Subject to paragraph (4), Y is £1 for every complete £9.50 by which the household income exceeds £61,061.

(3) Subject to Chapter 4 of this Part, where the student’s household income exceeds £61,061, 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 intensive course is equal to $X-Y$ where—

X is—

- (i) for a student in category A, £3,235;
- (ii) for a student in category B, £5,895;
- (iii) for a student in category C, £4,790;
- (iv) for a student in category D, £4,280;

Subject to paragraph (4), Y is £1 for every complete £9.50 by which the household income exceeds £61,061.

(4) Where the same household income is used to assess the amount of a statutory award for which two or more persons qualify, Y in paragraphs (2) and (3) must be divided by the number of such persons before being deducted from X .

(5) Where the maximum amount of loan for living costs calculated in accordance with paragraph (2) or (3) is less than the minimum level for the academic year specified in regulation 101, the minimum level for the academic year is payable.

(6) Subject to Chapter 4 of this Part, where the student’s household income exceeds £60,005 but does not exceed £61,061, the maximum amount of loan for living costs for

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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 intensive course is equal to X where—

X is—

- (i) for a student in category A, £3,580;
- (ii) for a student in category B, £6,475;
- (iii) for a student in category C, £5,510;
- (iv) for a student in category D, £4,625.

(7) Subject to Chapter 4 of this Part, where the student's household income exceeds £60,005 but does not exceed £61,061, 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 intensive course is equal to X where—

X is—

- (i) for a student in category A, £3,235;
- (ii) for a student in category B, £5,895;
- (iii) for a student in category C, £4,790;
- (iv) for a student in category D, £4,280.

(8) Subject to Chapter 4 of this Part, where the student's household income is £60,005 or less, 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 intensive course is equal to $X-Y$ where—

X is—

- (i) for a student in category A, £3,580;
- (ii) for a student in category B, £6,475;
- (iii) for a student in category C, £5,510;
- (iv) for a student in category D, £4,625;

Y is the maintenance grant amount.

(9) Subject to Chapter 4 of this Part, where the student's household income is £60,005 or less, 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 intensive course is equal to $X-Y$ where—

X is—

- (i) for a student in category A, £3,235;
- (ii) for a student in category B, £5,895;
- (iii) for a student in category C, £4,790;
- (iv) for a student in category D, £4,280;

Y is the maintenance grant amount.

(10) 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 £1,260, the amount of maintenance grant payable;
- (b) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant exceeding £1,260, £1,260; and
- (c) where no maintenance grant is payable, nil.”

3. After regulation 66, insert—

“Type 1 and type 2 teacher training students who are 2008 cohort students

66A.—(1) This regulation applies to a 2008 cohort student who is a type 1 or a type 2 teacher training student with full entitlement.

(2) Subject to Chapter 4 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 intensive course is equal to $X-(Y+Z)$ where—

X is—

- (i) for a student in category A, £3,580;
- (ii) for a student in category B, £6,475;
- (iii) for a student in category C, £5,510;
- (iv) for a student in category D, £4,625;

Y is the maintenance grant amount;

Subject to paragraph (4), Z is £1 for every complete £9.50 by which the household income exceeds £61,061.

(3) Subject to Chapter 4 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 intensive course is equal to $X-(Y+Z)$ where—

X is—

- (i) for a student in category A, £3,235;
- (ii) for a student in category B, £5,895;
- (iii) for a student in category C, £4,790;
- (iv) for a student in category D, £4,280;

Y is the maintenance grant amount;

Subject to paragraph (4), Z is £1 for every complete £9.50 by which the household income exceeds £61,061.

(4) Where the same household income is used to assess the amount of a statutory award for which two or more persons qualify, Z in paragraphs (2) and (3) must be divided by the number of such persons before being deducted from X .

(5) Where the sum of the maximum loan for living costs calculated in accordance with paragraph (2) or (3) and Y is less than the minimum level for the academic year specified in regulation 101, the loan for living costs payable in respect of an academic year to which this regulation applies is calculated as $A-B$ where—

A is the minimum level for the academic year specified in regulation 101

B is—

- (i) for a type 1 teacher training student who qualifies under Chapter 6 of Part 5 for a maintenance grant, £630;
- (ii) for a type 2 teacher training student who qualifies under Chapter 6 of Part 5 for a maintenance grant, £1,260; or
- (iii) where no maintenance grant is payable, nil.

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

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- (a) where the student is a type 1 teacher training student and qualifies under Chapter 6 of Part 5 for—
 - (i) an amount of maintenance grant of £630, £630;
 - (ii) an amount of maintenance grant exceeding £630 but not exceeding £1,260, the amount of maintenance grant payable;
- (b) where the student is a type 2 teacher training student and qualifies under Chapter 6 of Part 5 for an amount of maintenance grant of £1,260, £1,260;
- (c) where the student is a type 1 or a type 2 teacher training student and qualifies under Chapter 6 of Part 5 for an amount of maintenance grant exceeding £1,260, £1,260; and
- (d) where no maintenance grant is payable, nil.”

Amendment of regulation 101

- 4. In regulation 101(1) for “regulation 66(5)”, substitute “regulations 66(5), 66A(5)”.

Amendment of regulation 120

- 5. In regulation 120(1)(a)(i) after “council tax benefit;”, omit “or”.
- 6. In regulation 120(1)(a)(ii) after “the New Deal;”, insert—
“or
(iii) under Part 1 of the Welfare Reform Act 2007(5) to an income-related employment and support allowance;”.

Amendment of regulation 137

- 7. In regulation 137(5)(a)(i) after “council tax benefit;”, omit “or”.
- 8. In regulation 137(5)(a)(ii) after “the New Deal;”, insert—
“or
(iii) under Part 1 of the Welfare Reform Act 2007 to an income-related employment and support allowance;”.

SCHEDULE 2

Regulation 3

AMENDMENT OF [THE 2008 \(No. 2\) REGULATIONS](#)

Amendment of regulation 13

- 1. In regulation 13(8) after “regulations 22 and 29,” insert “where the student began the current course before 1st September 2009,”.

Amendment of regulation 64

- 2. In regulation 64(b) after ““the maintenance grant amount” is”, insert “, unless otherwise stated,”

(5) [2007 c.5.](#)

Amendment of regulation 67

3. In regulation 67(1)(a) after “ regulation 68”, insert “or 68A”.

Amendment of regulation 68

4. For regulation 68, substitute—

“2008 cohort students with full entitlement except type 1 and type 2 teacher training students

68.—(1) This regulation applies to a 2008 cohort student with full entitlement except a type 1 or a type 2 teacher training student.

(2) Subject to Chapter 4 of this Part, where the student’s household income exceeds £61,062 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 intensive course is equal to $X - Y$ where—

X is—

- (i) for a student in category A, £3,673;
- (ii) for a student in category B, £6,643;
- (iii) for a student in category C, £5,653;
- (iv) for a student in category D, £4,745;

Subject to paragraph (4), Y is £1 for every complete £9.27 by which the household income exceeds £61,062.

(3) Subject to Chapter 4 of this Part, where the student’s household income exceeds £61,062, 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 intensive course is equal to $X - Y$ where—

X is—

- (i) for a student in category A, £3,319;
- (ii) for a student in category B, £6,048;
- (iii) for a student in category C, £4,915;
- (iv) for a student in category D, £4,391;

Subject to paragraph (4), Y is £1 for every complete £9.27 by which the household income exceeds £61,062.

(4) Where the same household income is used to assess the amount of a statutory award for which two or more persons qualify, Y in paragraphs (2) and (3) must be divided by the number of such persons before being deducted from X .

(5) Where the maximum amount of loan for living costs is calculated in accordance with paragraph (2) or (3) and is less than the minimum level for the academic year specified in regulation 101, the minimum level for the academic year is payable.

(6) Subject to Chapter 4 of this Part, where the student’s household income exceeds £60,032 but does not exceed £61,062, 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 intensive course is equal to X where—

X is—

- (i) for a student in category A, £3,673;

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- (ii) for a student in category B, £6,643;
- (iii) for a student in category C, £5,653;
- (iv) for a student in category D, £4,745.

(7) Subject to Chapter 4 of this Part, where the student's household income exceeds £60,032 but does not exceed £61,062, 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 intensive course is equal to X where—

X is—

- (i) for a student in category A, £3,319;
- (ii) for a student in category B, £6,048;
- (iii) for a student in category C, £4,915;
- (iv) for a student in category D, £4,391.

(8) Subject to Chapter 4 of this Part, where the student's household income is £60,032 or less, 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 intensive course is equal to $X-Y$ where—

X is—

- (i) for a student in category A, £3,673;
- (ii) for a student in category B, £6,643;
- (iii) for a student in category C, £5,653;
- (iv) for a student in category D, £4,745;

Y is the maintenance grant amount.

(9) Subject to Chapter 4 of this Part, where the student's household income is £60,032 or less, 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 intensive course is equal to $X-Y$ where—

X is—

- (i) for a student in category A, £3,319;
- (ii) for a student in category B, £6,048;
- (iii) for a student in category C, £4,915;
- (iv) for a student in category D, £4,391;

Y is the maintenance grant amount.”

5. After regulation 68, insert—

“Type 1 and type 2 teacher training students who are 2008 cohort students—

68A.—(1) This regulation applies to a 2008 cohort student who is a type 1 or a type 2 teacher training student with full entitlement.

(2) Subject to Chapter 4 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 intensive course is equal to $X-(Y+Z)$ where—

X is—

- (i) for a student in category A, £3,673;

- (ii) or a student in category B, £6,643;
- (iii) for a student in category C, £5,653;
- (iv) for a student in category D, £4,745;

Y is the maintenance grant amount;

Subject to paragraph (4), Z is £1 for every complete £9.27 by which the household income exceeds £61,062.

(3) Subject to Chapter 4 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 intensive course is equal to $X - (Y + Z)$ where—

X is—

- (i) for a student in category A, £3,319;
- (ii) for a student in category B, £6,048;
- (iii) for a student in category C, £4,915;
- (iv) for a student in category D, £4,391;

Y is the maintenance grant amount;

Subject to paragraph (4), Z is £1 for every complete £9.27 by which the household income exceeds £61,062.

(4) Where the same household income is used to assess the amount of a statutory award for which two or more persons qualify, Z in paragraphs (2) and (3) must be divided by the number of such persons before being deducted from X .

(5) Where the sum of the maximum loan for living costs calculated in accordance with paragraph (2) or (3) and Y is less than the minimum level for the academic year specified in regulation 101, the loan for living costs payable in respect of an academic year to which this regulation applies is calculated as $A - B$ where—

A is the minimum level for the academic year specified in regulation 101

B is—

- (i) for a type 1 teacher training student who qualifies under Chapter 6 of Part 5 for a maintenance grant, £646;
- (ii) for a type 2 teacher training student who qualifies under Chapter 6 or Part 5 for a maintenance grant, £1,292; or
- (iii) where no maintenance grant is payable, nil.

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

- (a) where the student is a type 1 teacher training student and qualifies under Chapter 6 of Part 5 for—
 - (i) an amount of maintenance grant of £646, £646;
 - (ii) an amount of maintenance grant exceeding £646 but not exceeding £1,292, the amount of maintenance grant payable;
- (b) where the student is a type 2 teacher training student and qualifies under Chapter 6 of Part 5 for an amount of maintenance grant of £1,292, £1,292;
- (c) where the student is a type 1 or a type 2 teacher training student and qualifies under Chapter 6 of Part 5 for an amount of maintenance grant exceeding £1,292, £1,292; and
- (d) where no maintenance grant is payable, nil.”

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Amendment of regulation 101

6. In regulation 101(1) for “regulation 68(5)”, substitute “regulations 68(5), 68A(5)”.

Amendment of regulation 120

7. In regulation 120(1)(a)(i) after “council tax benefit;”, omit “or”.
8. In regulation 120(1)(a)(ii) after “ the New Deal;”, insert—
“or
(iii) under Part 1 of the Welfare Reform Act 2007(6) to an income-related employment and support allowance;”.

Amendment of regulation 132

9. In regulation 132(9)(a)(i) after “a designated course;”, omit “or”.
10. In regulation 132(9)(a)(ii) after “ the current designated distance learning course;”, insert “or”.
11. In regulation 132(9)(a)(iii) after “ the current designated part-time course;”, omit “or”.
12. In regulation 132(9)(b) after “or as an eligible part-time student”, omit “or”.

Amendment of regulation 137

13. In regulation 137(5)(a)(i) after “council tax benefit;”, omit “or”.
14. In regulation 137(5)(a)(ii) after “the New Deal;”, insert—
“or
(iii) under Part 1 of the Welfare Reform Act 2007 to an income-related employment and support allowance;”.

Amendment of regulation 140

15. In regulation 140(1) after “which the Secretary of State is satisfied”, for “the Secretary of State” substitute “the student”.

Amendment of Schedule 1

16. In paragraph 4(1)(b) of Schedule 1 for “the Secretary of State”, substitute “ the person”.

Amendment of Schedule 4

17. In paragraph 2(1)(k)(v) of Schedule 4 for “ the Secretary of State”, substitute “A”.

(6) 2007 c.5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Support) Regulations 2008 (“the 2008 Regulations”) and the Education (Student Support) (No.2) Regulations 2008 (“the 2008 (No.2) Regulations”) which provide for financial support for students taking designated higher education courses in respect of academic years beginning respectively on or after 1st September 2008 and 1st September 2009.

Changes of substance made by these Regulations are described below.

Regulations 120 and 137 of the 2008 Regulations are amended so that the income strand of the employment and support allowance (ESA) introduced by the Welfare Reform Act 2007 is added to the list of means-tested benefits for part-time students and full-time distance learning students. These amendments come into force on 27th October 2008 to coincide with the coming into force of Part 1 of the 2007 Act. The same amendments have been made to regulations 120 and 137 of the 2008 (No.2) Regulations.

Regulation 66 of the 2008 Regulations is substituted and regulation 66A inserted to provide clarification of the calculation of financial support for 2008 cohort students (including 2008 cohort students who are type 1 or type 2 teacher training students) with full entitlement. These amendments ensure the correct entitlement to loans for living costs. The same substitution and insertion is made in regulations 68 and 68A of the [2008 \(No. 2\) Regulations](#).

Regulation 13(8) of the 2008 (No.2) Regulations has been amended so that it no longer applies to students starting their current course on or after 1st September 2009, who have taken a previous UK or overseas course but did not achieve a qualification. For these students, all United Kingdom and overseas study undertaken full-time at a publicly funded institution (with the exception of repeat years for compelling personal reasons) will be taken into account when support for the current course is assessed.

Minor consequential changes have been made following the amendments. Also minor drafting corrections have been made to regulations 132 and 140 of and Schedules 1 and 4 to the 2008 (No.2) Regulations.

An impact assessment has not been produced for this instrument as it has no impact on the cost of business, charities or the voluntary sector. The impact on the public sector is minimal.