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STATUTORY INSTRUMENTS

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**2009 No. 1555**

**The Education (Student Support) Regulations 2009**

**PART 1**

**GENERAL**

**Citation, commencement, and application**

1.—(1) These Regulations may be cited as the Education (Student Support) Regulations 2009 and come into force on 1st September 2009.

(2) These Regulations apply in relation to England<sup>(1)</sup>.

(3) These Regulations (except regulation 3 and Schedule 5) apply in relation to the provision of support to students in relation to an academic year which begins on or after 1st September 2010 whether anything done under these Regulations is done before, on or after 1st September 2010.

**Interpretation**

2.—(1) In these Regulations—

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

“the 1998 Act” means the Teaching and Higher Education Act 1998;

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

“the 1999 Regulations” means the Education (Student Support) Regulations 1999<sup>(4)</sup>;

“the 2000 Regulations” means the Education (Student Support) Regulations 2000<sup>(5)</sup>;

“the 2001 Regulations” means the Education (Student Support) Regulations 2001<sup>(6)</sup>;

“the 2002 Regulations” means the Education (Student Support) Regulations 2002<sup>(7)</sup>;

“the 2003 Regulations” means the Education (Student Support) (No. 2) Regulations 2002 (<sup>0</sup>f00009"/> as amended only by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003 (<sup>0</sup>f00010"/> and the Education (Student Fees and Support) (Switzerland) Regulations 2003 (<sup>0</sup>f00011"/>;

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- (1) 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.
- (2) 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 The entire Act was repealed by the Teaching and Higher Education Act 1998 (c.30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching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.
- (3) S.I. 1998/2003.
- (4) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.
- (5) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.
- (6) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.
- (7) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.

“the 2004 Regulations” means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004<sup>(8)</sup>, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004<sup>(9)</sup>, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004<sup>(10)</sup>, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004<sup>(11)</sup>, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005<sup>(12)</sup>, the Education (Student Support) (Amendment) Regulations 2005<sup>(13)</sup> and the Education (Student Support) (Amendment) (No. 2) Regulations 2005<sup>(14)</sup>;

“the 2005 Regulations” means the Education (Student Support) Regulations 2005<sup>(15)</sup>;

“the 2006 Regulations” means the Education (Student Support) Regulations 2006<sup>(16)</sup>;

“the 2007 Regulations” means the Education (Student Support) Regulations 2007<sup>(17)</sup>;

“the 2008 Regulations” means the Education (Student Support) Regulations 2008<sup>(18)</sup>;

“the 2008 (No.2) Regulations” means the Education (Student Support) (No.2) Regulations 2008<sup>(19)</sup>;

“2008 cohort student” means a current system student who—

- (a) begins the current course on or after 1st September 2008 and before 1st September 2009;
- (b) transfers to the current course pursuant to regulation 8 on or after 1st September 2009 from a course beginning on or after 1st September 2008 and before 1st September 2009; or
- (c) begins an end-on course on or after 1st September 2009 immediately after ceasing to attend a preliminary course that began on or after 1st September 2008 and before 1st September 2009,

and to whom one of the following sub-paragraphs applies—

- (i) the student has not previously undertaken any course designated for the purposes of section 22 of the 1998 Act which began before 1st September 2008;
- (ii) where (a) or (b) apply, the student is a type 1 or a type 2 teacher training student; or
- (iii) the course leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner;

“2009 cohort student” means a current system student who—

- (a) begins the current course on or after 1st September 2009 and is not a 2008 cohort student;
- (b) transfers to the current course pursuant to regulation 8 on or after 1st September 2010 from a course beginning on or after 1st September 2009; or
- (c) begins an end-on course on or after 1st September 2010 immediately after ceasing to attend a preliminary course that begins on or after 1st September 2009,

and to whom one of the following sub-paragraphs applies—

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<sup>(8)</sup> S.I. 2004/161.

<sup>(9)</sup> S.I. 2004/1602.

<sup>(10)</sup> S.I. 2004/2041.

<sup>(11)</sup> S.I. 2004/2598.

<sup>(12)</sup> S.I. 2005/5.

<sup>(13)</sup> S.I. 2005/1341.

<sup>(14)</sup> S.I. 2005/2084.

<sup>(15)</sup> S.I. 2005/52, as amended by S.I. 2005/1341, S.I. 2005/2084, S.I. 2005/3482, S.I. 2006/955 and S.I.2009/862.

<sup>(16)</sup> S.I. 2006/119, as amended by S.I. 2006/955, S.I. 2006/1745 and S.I. 2007/1336.

<sup>(17)</sup> S.I. 2007/176, as amended by S.I. 2007/1336, S.I. 2007/2263 and S.I. 2008/235.

<sup>(18)</sup> S.I. 2008/529 as amended by S.I. 2008/1582, S.I. 2008/2094, S.I. 2008/2939 and S.I.2009/862.

<sup>(19)</sup> S.I.2008/1582 as amended by S.I. 2008/2094 and S.I. 2008 2008/2939.

- (i) the student has not previously undertaken any course which began before 1st September 2008 and which is a previous course;
- (ii) where (a) or (b) apply, the student is a type 1 or a type 2 teacher training student; or
- (iii) the course leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect;

“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;

“Academy” means an Academy established by an agreement under section 482 of the Education Act 1996(20);

“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;

“bursary year” means 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 that student’s 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 that student’s income;

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

“compressed degree course” means a course determined in accordance with paragraph (2) to be a compressed degree course;

“compressed degree student” means an eligible student who—

- (a) is undertaking a compressed degree course in the United Kingdom (the “course”);
- (b) either—
  - (i) began the course on or after 1st September 2006 and is continuing on that course after 31st August 2010; or
  - (ii) begins the course on or after 1st September 2010; and
- (c) either—
  - (i) is required to be in attendance on the course for part of the academic year for which the student is applying for support; or
  - (ii) is a disabled student who is not required to be in attendance on the course because the student is unable to attend for a reason which relates to that student’s disability;

“contribution” means an eligible student’s contribution calculated pursuant to regulation 96 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;

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(20) 1996 c.56; section 482 was amended by the Education Act 2002 (c.32), section 65(1).

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

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

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

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

“current system student” means an eligible student who—

(a) is not an old system student; and

(b) either—

(i) began the current course on or after 1st September 2006 and is continuing on that course after 31st August 2010; or

(ii) begins the current course on or after 1st September 2010;

“designated course” means a course designated by regulation 6 or by the Secretary of State under regulation 6;

“designated distance learning course” means a course designated by the Secretary of State under regulation 118;

“designated part-time course” means a course designated by regulation 135 or by the Secretary of State under regulation 135;

“designated postgraduate course” means a course designated by regulation 152 or by the Secretary of State under regulation 152;

“disabled distance learning students’ allowance” means the grant payable under regulation 123;

“disabled part-time students’ allowance” means the grant payable under regulation 141;

“disabled students’ allowance” means the grant payable under regulation 40;

“Directive 2004/38” means Directive 2004/38 of the European Parliament and of the Council of 29th April 2004(21) 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;

“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 distance learning student” has the meaning given in regulation 116;

“eligible part-time student” has the meaning given in regulation 133;

“eligible postgraduate student” has the meaning given in regulation 150;

“eligible student” has the meaning given in paragraph (3);

“employment-based teacher training scheme” means—

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(21) OJ L158, 30.4.2004, p77-123

- (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 or other educational institution except a pupil referral unit; or
- (b) a scheme established by the National Assembly for Wales or the Welsh Ministers 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) beginning before 1st September 2009 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, 2005, 2006, 2007, 2008 or 2008 (No.2) Regulations;
- (b) a full-time honours degree course beginning on or after 1st September 2006 but before 1st September 2009 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, 2005, 2006, 2007, 2008 or 2008 (No.2) 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;
- (d) a full-time first degree course beginning on or after 1st September 2009, (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 lower level full-time or part-time higher education course, or undertake a compressed degree course or a designated distance learning course;

“equivalent or lower qualification” means a qualification determined in accordance with paragraph (5) to be an equivalent or lower qualification;

“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 where the student’s course is a course referred to in regulation 6(1)(e) 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 current 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 Higher Education Act 2004(23) except in references to college fees;

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

(23) 2004 c. 8, to which there have been amendments not relevant to these Regulations.

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

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“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<sup>(24)</sup> where the course—

- (a) began before 1 September 2010; or
- (b) begins on or after 1st September 2010 where the student transfers to the current course pursuant to regulation 8 from a course for the initial training of teachers which began before 1st September 2010;

“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—
- (c) the area of the former urban district of Chigwell,
- (d) the parish of Waltham Abbey;
- (e) in the county of Hertfordshire—
- (f) in the borough of Broxbourne, the area of the former urban district of Cheshunt,
- (g) the district of Hertsmere,
- (h) in the district of Welwyn Hatfield, the parish of Northaw; and
- (i) in the county of Surrey—
- (j) in the borough of Elmbridge, the area of the former urban district of Esher,
- (k) the boroughs of Epsom and Ewell and Spelthorne,
- (l) 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 (6);

“grant for living and other costs” means a grant payable under Part 5;

“healthcare bursary” means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968<sup>(25)</sup> or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(26)</sup>;

“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;

“information” includes documents;

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(24) 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.

(25) 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), sections 20 and 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c.39), Schedule 13, the Health Authorities Act 1995 (c.17), Schedule 1, 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 Health Care Professions Act 2002 (c.17), Schedules 2, 5 and 9, S.I. 2002/2202, article 4, S.I. 2002/2469, Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedules 4, 11 and 14, S.I. 2004/288, article 7, the Children Act 2004 (c.31), section 55, S.I. 2004/957, the Schedule, the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, S.I.2006/1056 and S.I. 2007/961, the Schedule.

(26) S.I. 1972/1265 (N.I. 14), to which there have been amendments not relevant to these Regulations.

- “Institute” means the University of London Institute in Paris;
- “intensive course” means an accelerated course or a compressed degree course;
- “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;
- “long courses loan” means a long courses loan pursuant to regulation 78;
- “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;
- “old award” is an award within the meaning of the Education (Mandatory Awards) Regulations 2003(27);
- “old flexible postgraduate course for the initial training of teachers” means a flexible postgraduate course for the initial training of teachers which a student started to attend before 1st September 2008;
- “old system student” means an eligible student who—
- (a) began the current course before 1st September 2006 and is continuing on that course after 31st August 2010;
  - (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 the student began before 1st September 2006; or
    - (ii) a course that the student began before 1st September 2007 and in relation to which the student was a gap year student; or
  - (d) began the current course on or after 1st September 2006 having had their 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 the Secretary of State under section 22 of the 1998 Act from a designated course in connection with which the Secretary of State determined the student to be an eligible student and which the student began—
    - (i) before 1st September 2006; or
    - (ii) before 1st September 2007 and in relation to which the student was a gap year student;
- “ordinary duration” means, in relation to a designated course, the number of academic years that a standard student would take to complete the designated course excluding any academic years of the course that are bursary years or Erasmus years;
- “period of eligibility” has the meaning given respectively in regulation 7 in relation to an eligible student, in regulation 119 in relation to an eligible distance learning student, in regulation 136 in relation to an eligible part-time student and in regulation 153 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 the student is studying for that student's course (provided that the period of residence in that country is a requirement of that student's 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);

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

- (a) who has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although the person is considered not to qualify for recognition as a refugee, it is thought right to allow that person to enter or remain in the United Kingdom;
- (b) who has been granted leave to enter or remain accordingly;
- (c) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002<sup>(28)</sup>); and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted leave to enter or remain;

“preliminary course” means 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;

“previous course” has the meaning given in regulation 13;

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

“public funds” means moneys provided by Parliament or by a government authority outside the United Kingdom;

“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<sup>(29)</sup>;

“qualifying course” means a full-time designated course which is provided by the University of Oxford or the University of Cambridge and—

- (a) leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect;
- (b) where it began before 1st September 2009, leads to qualification as a landscape architect, landscape designer, landscape manager, town planner or town and country planner; or
- (c) any academic year of which is a bursary year;

“qualifying student” means a person who satisfies the criteria in regulation 89;

“qualifying year of study” means an academic year of a designated 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

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<sup>(28)</sup> 2002 c.41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19), Schedule 2 and the Immigration, Asylum and Nationality Act 2006 (c.13), section 9.

<sup>(29)</sup> 2002 c. 32.



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

“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(30) as extended by the Protocol thereto which entered into force on 4th October 1967(31);

“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) Science and Technology Facilities Council;

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

“sandwich course” has the meaning given in paragraph (10);

“Scottish healthcare allowance” means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(32) 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;

“specified designated course” has the meaning given in paragraph (11);

“standard academic year”, unless otherwise indicated, means 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 after 1st September 2006 and who enters the course at the same point as the eligible student;

“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;

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(30) Cmnd. 9171.

(31) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Finance Policy Division, Department for Innovation, Universities and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

(32) 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 (asp 6), section 3(2). 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).

“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(33), the Education (Student Loans) (Northern Ireland) Order 1990(34), the Education (Scotland) Act 1980 and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998(35) and regulations made under that Order or the 1998 Act and regulations made under that Act;

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

“transitional award” means an award made under the Education (Mandatory Awards) Regulations 1998(36) other than an old award;

“Turkish worker” means a Turkish national who—

- (a) is ordinarily resident in the United Kingdom and Islands; and
- (b) is, or has been, lawfully employed in the United Kingdom;

“type 1 teacher training student” means a current 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 the student is applying for support are in aggregate at least 6 weeks but less than 10 weeks where the course—

- (a) began before 1st September 2010; or
- (b) begins on or after 1st September 2010 where the student transfers to the current course pursuant to regulation 8 from a course for the initial training of teachers which began before 1st September 2010;

“type 2 teacher training student” means a current 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 the student is applying for support are in aggregate 10 weeks or more where the course—

- (a) began before 1st September 2010; or
- (b) begins on or after 1st September 2010 where the student transfers to the current course pursuant to regulation 8 from a course for the initial training of teachers which began before 1st September 2010; and

“type 3 teacher training student” means a current system student on a course for a first degree for the initial training of teachers whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which the student is applying for support are in aggregate at least 6 weeks but less than 10 weeks where the course—

- (a) began before 1st September 2010; or
- (b) begins on or after 1st September 2010 where the student transfers to the current course pursuant to regulation 8 from a course for the initial training of teachers which began before 1st September 2010.

(2) The Secretary of State may determine that a course is a compressed degree course if, in the opinion of the Secretary of State, that course is—

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(33) 1990 c.6; repealed by the Teaching and Higher Education Act 1998 (c.30), Schedule 4.

(34) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/274 (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 and revoked, with savings, by SR (NI) 1998 No 306.

(35) S.I. 1998/1760 (N.I. 14), to which there have been amendments not relevant to these Regulations.

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

- (a) a course for a first degree (other than a foundation degree);
  - (b) a full-time course designated under regulation 6(1); and
  - (c) of two academic years' duration.
- (3) Subject to paragraph (4), “eligible student” has the meaning given in regulation 5.
- (4) For the purposes of the college fee loan, references to an eligible student in regulations 7, 8, 9 and Schedule 3 include a person treated as an eligible student by virtue of regulation 90.
- (5) The Secretary of State may determine that a qualification is an equivalent or lower qualification if—
- (a) an eligible student holds a higher education qualification from any institution whether or not in the United Kingdom; and
  - (b) the qualification referred to in sub-paragraph (a) is of an academic level which is equivalent to or higher than a qualification to which the current course leads.
- (6) 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 the person meets the conditions in paragraph (7) or (9).
- (7) 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 began on or after 1st September 2006 but before 1st September 2007.
- (8) In paragraph (7), a course (the “original course”) is similar to the current course if—
- (a) it appears to the academic authority 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.
- (9) 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 began before 1st September 2006;
  - (b) the person was unable to take up the offer because a specified qualification or grade was not awarded to them;
  - (c) the person appealed against the decision not to award them the qualification or grade;
  - (d) the appeal was allowed after the last date on which they could have taken up the offer;
  - (e) as a result, the person was offered a place on the current course; and
  - (f) the first academic year of the current course began on or after 1st September 2006 but before 1st September 2007.
- (10) 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 sub-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 sub-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.

(11) In these Regulations, the "specified designated course" means the current course subject to paragraphs (12) and (13).

(12) 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 the Secretary of State under section 22 of the 1998 Act, the specified designated course is the initial course.

(13) 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.

### **Amendment of the Education (Student Support) (No.2) Regulations 2008**

3. The 2008 (No.2) Regulations are amended in accordance with Schedule 5.

### **Revocation, savings and transitional provisions**

4.—(1) The Education (Student Support) Regulations 2008 (Amendment) Regulations 2009<sup>(37)</sup> and regulations 93 and 94 of the 2008 (No. 2) Regulations are revoked on 1st September 2009.

(2) Subject to paragraphs (3) and (4), the following regulations are revoked on 1st September 2010—

- (a) the 2008 (No.2) Regulations;
- (b) the Education (Student Support) (Amendment) (No.2) Regulations 2008<sup>(38)</sup>;
- (c) the Education (Student Support) (Amendment) (No.3) Regulations 2008 <sup>(39)</sup>.

(3) Paragraph (3) of regulation 4 of the 2008 (No.2) Regulations continues to apply.

(4) The 2008 (No. 2) Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1st September 2009 but before 1st September 2010.

(5) Despite any other provision in these Regulations where a person—

- (a) attends a course in respect of which a transitional award was made; or
- (b) had received no award under the 1962 Act in respect of the course but a transitional award would have been bestowed had the person applied for an award under the 1962 Act and the person's resources had not exceeded the person's requirements,

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<sup>(37)</sup> S.I.2009/862

<sup>(38)</sup> S.I.2008/2094.

<sup>(39)</sup> S.I.2008/2939.

the person 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 (6) applies the person qualifies for support by way of loan for living costs under Part 6 only if the person is an eligible student under these Regulations and if the person satisfies the qualifying conditions for an old system student in Part 6.

(6) 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 the person 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) the person begins immediately after ceasing that course, but unless paragraph (5) applies the person qualifies for fee support under Chapters 4 and 5 of Part 4 and grants for living and other costs under Part 5 only if the person is an eligible student under these Regulations and if the person satisfies the relevant qualifying conditions for an old system student in Parts 4 and 5.