
STATUTORY INSTRUMENTS

2008 No. 1582

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

PART 10

PAYMENTS

CHAPTER 1

INTERPRETATION OF PART 10

Interpretation

103. In this Part—

(a) “attendance confirmation” means—

(i) confirmation from the academic authority that the student has enrolled for the academic year where—

(aa) the student is applying for support in connection with a designated course for the first time;

(bb) the student has a disability; and

(cc) the student is undertaking the course but not attending (regardless of whether the reason for not attending relates to the student’s disability);

(ii) confirmation from the academic authority that the student has been present at the institution and begun to attend the course where—

(aa) the student is applying for support in connection with a designated course for the first time;

(bb) the student’s status as an eligible student has not been transferred to the course from another designated course at the same institution; and

(cc) sub-paragraph (i)(cc) does not apply;

(iii) confirmation from the academic authority that the student has enrolled for the academic year where—

(aa) the student is applying for support in connection with a designated course other than for the first time; or

(bb) the student is applying for support in connection with a designated course for the first time after the student’s status as an eligible student has been transferred to that course from another course at the same institution;

(b) “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’s period of eligibility had not terminated.

CHAPTER 2

PAYMENT OF GRANTS FOR FEES

Payment of grants for fees

104.—(1) The Secretary of State must not pay the grant for fees for which a student qualifies until the Secretary of State has received a 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 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 or, in the case of a student who is treated as in attendance under regulation 19, undertake the course; and
- (b) the academic authority has determined or agreed that the student will not begin attending or, as the case may be, undertaking in the United Kingdom the course again during the academic year in respect of which the fees are payable or at all.

CHAPTER 3

PAYMENT OF GRANTS FOR LIVING AND OTHER COSTS

Payment of grants for living and other costs

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

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

(3) An academic authority is required to send an attendance confirmation to the Secretary of State.

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

(5) 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.

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

(7) 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 support under Part 5.

(8) Subject to paragraph (9), no support under Part 5 is due in respect of any day of an academic year on which the eligible student is a prisoner, 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 that day.

(9) Paragraph 8 does not apply in respect of disabled student's allowance.

(10) In deciding whether it would be appropriate for support to be due under paragraph (8) the circumstances to which the Secretary of State must have regard include the financial hardship not paying the support would cause and whether not paying the support would affect the student's ability to continue the course.

(11) No support under Part 5 in respect of the current course is due in respect of any payment period beginning after an eligible student's period of eligibility terminates.

(12) Where an eligible student's period of eligibility terminates 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 eligible student's period of eligibility had not terminated (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 eligible student's period of eligibility terminated (the "partial amount").

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

(14) If the Secretary of State has made a payment of grant for living and other costs in respect of the relevant payment period before the point in that period at which the eligible student's period of eligibility terminated and that payment exceeds the partial amount of that grant—

- (a) the Secretary of State may treat the excess as an overpayment of that grant; or
- (b) if the Secretary of State considers that it is appropriate to do so the Secretary of State 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.

(15) Subject to paragraph (16), 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 eligible student's period of eligibility has terminated, the amount of that grant due is the partial amount unless the Secretary of State considers it 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.

(16) Paragraph (15) does not apply to a payment of the disabled students' allowance in respect of specialist equipment.

(17) No support under Part 5 is due in respect of a payment period during any part of which an eligible student is absent from the 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.

(18) In deciding whether it would be appropriate for support to be due under paragraph (17) 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 the support would cause.

(19) An eligible student is not to be considered absent from the course if the student is unable to attend due to illness and the student's absence has not exceeded 60 days.

(20) Where, after the Secretary of State has made any payment of support under Part 5 or Part 6, the Secretary of State makes a determination of the amount of a grant for living and other costs for which the student qualifies 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 the Secretary of State must pay the additional amount in such instalments (if any) and at such times as the Secretary of State considers appropriate;
- (b) if the determination decreases the amount of that grant for which the student qualifies the Secretary of State 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 Chapter 5 of this Part.

CHAPTER 4

PAYMENT OF LOANS

General

106.—(1) Subject to paragraph (2) —

- (a) fee loans and fee contribution loans are payable in accordance with regulation 109;
 - (b) college fee loans are payable in accordance with regulation 110;
 - (c) loans for living costs and long courses loans are payable in accordance with regulation 111;
- (2) Regulations 107 and 108 apply in respect of the payment of all loans.

Provision of United Kingdom national insurance number

107.—(1) The Secretary of State may make it a condition of entitlement to payment of any loan that the eligible or qualifying student must provide the Secretary of State with the student's United Kingdom national insurance number.

(2) Where the Secretary of State has imposed a condition under paragraph (1), the Secretary of State must not make any payment of the loan to the eligible or qualifying student before the Secretary of State is satisfied that the student has complied with that condition.

(3) Despite paragraph (2), the Secretary of State may make a payment of loan to an eligible or qualifying student if the Secretary of State is satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the eligible or qualifying student having complied with the condition imposed under paragraph (1).

Information requirements

108.—(1) The Secretary of State may at any time request from an applicant, eligible student or qualifying student information that the Secretary of State considers is required to recover a loan.

(2) The Secretary of State may at any time require an applicant, eligible student or qualifying 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, eligible student or qualifying student sight of their valid national identity card, valid passport issued by the state of which they are a national or their birth certificate.

(4) Where the Secretary of State has requested information under this regulation, the Secretary of State 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.

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

Payment of fee loans and fee contribution loans

109.—(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) the Secretary of State has received a 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 or, in the case of a student treated as in attendance under regulation 19, undertake the course; and
- (b) the academic authority has determined or agreed that the student will not begin attending or, as the case may be, undertaking in the United Kingdom the course again during the academic year in respect of which the fees are payable or at all.

Payment of college fee loans

110.—(1) The Secretary of State must pay the college fee loan for which a qualifying student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The Secretary of State must pay the college fee loan in a single instalment.

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

- (a) the Secretary of State has received a request for payment from the college or permanent private hall; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) A college or permanent private hall is required to send an attendance confirmation to the Secretary of State.

(5) The Secretary of State must not pay the college fee loan until the Secretary of State has received an attendance confirmation from the relevant college or permanent private hall unless the Secretary of State determines that owing to exceptional circumstances, it would be appropriate to make a payment without receiving that confirmation.

(6) The Secretary of State must not make a payment of college fee loan in respect of a qualifying course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend or, in the case of a student who is treated as in attendance under regulation 86, undertake the course; and
- (b) the college or permanent private hall has determined or agreed that the student will not begin attending or, as the case may be, undertaking the course in the United Kingdom again during the academic year in respect of which the college fees are payable or at all.

Payment of loans for living costs and long courses loans

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

(2) Subject to paragraph (4), the Secretary of State may pay support under Part 6 at such times as the Secretary of State considers appropriate.

(3) An academic authority is required to send an attendance confirmation to the Secretary of State.

(4) The Secretary of State must not pay the first instalment, or where it has been determined not to pay support under Part 6 by instalments, make any payment of support under Part 6 to the eligible student before the Secretary of State has received an attendance confirmation from the relevant academic authority unless an exception applies.

(5) An exception applies if the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.

(6) 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 support under Part 6.

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

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

(9) Subject to paragraph (10), no support under Part 6 is due in respect of any day of an academic year on which the eligible student is a prisoner, 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 that day.

(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 financial hardship which not paying the support would cause and whether not paying the support would affect the student's ability to continue the course.

(11) No support under Part 6 in respect of the current course is due in respect of any payment period beginning after an eligible student's period of eligibility terminates.

(12) No support under Part 6 is due in respect of a payment period during part of which an eligible student is absent from the 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.

(13) In deciding whether it would be appropriate for support to be due under paragraph (12) 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 the support would cause.

(14) An eligible student is not to be considered absent from the student's course if the student is unable to attend due to illness and the student's absence has not exceeded 60 days.

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

- (a) the Secretary of State must subtract from any amount of the loan in question which remains to be paid such amount as is necessary to ensure that the student does not borrow an amount of the loan in question which is greater than that for which the student qualifies;
- (b) if the amount to be subtracted is greater than the amount of the loan in question remaining to be paid, the amount of that loan remaining to be paid is reduced to nil;
- (c) any remaining overpayment is recoverable in accordance with Chapter 5 of this Part.

CHAPTER 5 OVERPAYMENTS

Overpayments of fee support

112. Any overpayment of fee support is recoverable by the Secretary of State from the academic authority.

Overpayments of college fee loan

113. Any overpayment of college fee loan is recoverable by the Secretary of State from the college or permanent private hall.

Overpayments of support payable under Part 5 or Part 6

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

(2) The Secretary of State must recover an overpayment of any grant for living and other costs unless the Secretary of State 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 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.

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

(7) 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's period of eligibility terminates after the relevant date; and
 - (c) the equipment has not been delivered to the student before the student's period of eligibility terminates.
- (8) The circumstances are—
- (a) the eligible student's period of eligibility terminates after the relevant date; and
 - (b) a payment of the disabled students' allowance in respect of specialist equipment is made to the student after the student's period of eligibility terminated.
- (9) 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 the Secretary of State considers it is appropriate to do so.
- (10) Any overpayment of a loan for living costs or a long courses loan 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 the student qualifies for the loan in question or the amount of the loan in question for which the student 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.
- (11) Where an overpayment of a loan for living costs or a long courses loan is recoverable under paragraph (10), 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 any amount of the loan in question payable to the student from time to time;
 - (b) by taking such other action for the recovery of an overpayment as is available to the Secretary of State.
- (12) Where there has been an overpayment of a loan for living costs or long courses loan which is not recoverable under paragraph (10), the Secretary of State may subtract the overpayment from any amount of the loan in question payable to the student from time to time.