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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 195**

**The Education (Student Support)  
Regulations (Northern Ireland) 2007**

**PART 11**

**SUPPORT FOR PART-TIME COURSES**

**Eligible part-time students**

**108.**—(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 in assessing his application for support the Department determines that the person falls within one of the categories set out in Part 2 of Schedule 2.

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

- (a) there has been made to 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(1); 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 Department, 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), and subject to paragraphs (10) to (12), 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 Department under Article 3 of the Order; and
- (b) the person's status as an eligible part-time student has not terminated.

(9) The conditions in this paragraph are—

- (a) the Department 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 Department under Article 3 of the Order; and
- (c) the person's status as an eligible part-time student has not terminated.

(10) Where—

- (a) the Department determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course or other designated part-time course from which his status as an eligible part-time student or eligible student has been transferred to the current part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which he is applying for support.

(11) Where—

- (a) the Department determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course or other designated part-time course from which his status as an eligible part-time student or eligible student has been transferred to the current part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which he is applying for support.

(12) Paragraphs (10) and (11) do not apply where the student began the course in connection with which the Department determined that he was an eligible part-time student or eligible student, as the case may be, before 1st September 2007.

(13) 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.

### **Students becoming eligible during the course of the academic year**

**109.**—(1) Where one of the events listed in paragraph (3) 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.

(2) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g) or (h) of paragraph (3) 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.

(3) 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;
- (c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 2) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;
- (e) 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;
- (f) the student acquires the right of permanent residence;
- (g) the student becomes a person described in paragraph 6(1)(a) of Part 2 of Schedule 2; or
- (h) the student becomes the child of a Swiss national.

### **Designated part-time courses**

**110.**—(1) Subject to paragraph (2), a part-time course is designated for the purposes of Article 3(1) of the Order and regulation 108 if—

- (a) it is a course mentioned in Schedule 3 other than a course for the initial training of teachers;
- (b) it is of at least one academic year's duration; and

- (c) it is ordinarily possible to complete the course in not more than twice the period ordinarily required to complete the full-time equivalent;
  - (d) 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
  - (e) it is not designated by or under regulation 6.
- (2) A course that is taken as part of an employment-based teacher training scheme is not a designated part-time course.
- (3) 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(2).
- (4) For the purposes of paragraph (1)(c)—
- (a) “full-time equivalent” means a full-time course leading to the same qualification as the part-time course in question;
  - (b) “period ordinarily required to complete the full-time equivalent” means—
    - (i) where the course is provided by or on behalf of the Open University, the period that a standard full-time student would require to complete the full-time equivalent if he was awarded 120 credit points in each academic year;
    - (ii) where the course is provided by or on behalf of any other institution, the period in which a standard full-time student would complete the full-time equivalent;
  - (c) “standard full-time student” is a student who is to be taken—
    - (i) to have begun the full-time equivalent on the same date as the eligible part-time student began the part-time course in question;
    - (ii) not to have been excused any part of the full-time equivalent;
    - (iii) not to have repeated any part of the full-time equivalent; and
    - (iv) not to be absent from the full-time equivalent other than during vacations.
- (5) For the purposes of Article 3 of the Order and regulation 108(1) the Department may designate courses of higher education which are not designated by paragraph (1).

### **Period of eligibility**

**111.—(1)** A 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 and regulation 108.

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

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(2) 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 and regulation 108, 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 Department has not transferred or converted or will not transfer or convert his status under regulation 120 or 121; or

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

(5) The period of eligibility terminates at the end of the relevant academic year where the eligible part-time student cannot complete the designated part-time course within the period specified in regulation 110(1)(c)

(6) For the purposes of paragraph (5), “relevant academic year” means the academic year during or at the end of which it becomes impossible for the student to complete the course within the period specified in regulation 110(1)(c) even if he increases his intensity of study.

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

(8) If the Department 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 Department may take such of the following actions as it 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 124.

(9) Where the period of eligibility terminates—

(a) before the end of the academic year in which the eligible part-time student completes the designated part-time course; and

(b) otherwise than under paragraph (5)

the Department may, at any time, renew or extend the period of eligibility for such period as it determines.

### **Assistance for part-time courses**

**112.**—(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

(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 2 into which he falls is paragraph 9.

(3) An eligible part-time student qualifies for assistance—

(a) under paragraph (1)(a) if the Department considers that he is undertaking the designated part-time course in Northern Ireland; and

- (b) under paragraph (1)(b) if the Department 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 Article 3 of the Order;
  - (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 pursuant to regulations made under section 22 of the 1998 Act; 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(3).
- (6) An eligible part-time student does not qualify for support under this regulation if he holds a first degree from—
  - (a) an educational institution in the United Kingdom; or
  - (b) an educational institution in the Republic of Ireland for which he received financial support under previous regulations.
- (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

- 113.**—(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—

where

*PT* is the number of modules, credits, credit points, points or other unit to be awarded to the eligible part-time student by the academic authority if he successfully completes the academic year in connection with which he is applying for support;

*FT* is—

- (a) where the course is provided by or on behalf of the Open University, 120;
  - (b) where the course is provided by or on behalf of any other institution, the number of modules, credits, credit points, points or other unit that a standard full-time student would be required to obtain in each academic year in order to complete the full-time equivalent within the period ordinarily required to complete that course.
- (3) For the purposes of paragraph (2) —

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(3) 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 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998. 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)

- (a) “full-time equivalent” and “standard full-time student” are to be interpreted in accordance with regulation 110; and
  - (b) the period ordinarily required to complete the full-time equivalent is to be calculated in accordance with regulation 110.
- (4) The “basic grant” is—
- (a) £765 where the intensity of study is less than 60 per cent. (“level 1”);
  - (b) £920 where the intensity of study is 60 per cent. or more but less than 75 per cent. (“level 2”);
  - (c) £1,150 where the intensity of study is 75 per cent. or more (“level 3”).
- (5) Subject to paragraph (6) and regulation 120(6), the amount of assistance payable in respect of an academic year is as follows—
- (a) the maximum amount of assistance available under regulation 112(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 (Northern Ireland) Act 1992(4) to income support or housing benefit; or
    - (ii) under Part II of the Jobseekers (Northern Ireland) Order 1995(5) to income-based jobseekers allowance or under section 1 of the Employment and Training Act (Northern Ireland) 1950(6) to new deal allowance;
  - (b) where the relevant income is less than £15,700, the maximum amount of assistance available under regulation 112(1) is payable;
  - (c) where the relevant income is £15,700, the maximum amount of assistance available under regulation 112(1)(b) is payable together with £50 less than the maximum amount of assistance available under regulation 112(1)(a);
  - (d) where the relevant income exceeds £15,700 but is less than £23,680, the maximum amount of assistance available under regulation 112(1)(b) is payable and the amount of assistance payable under regulation 112(1)(a) is the amount determined in accordance with paragraph (6);
  - (e) where the relevant income is £23,680, the maximum amount of assistance available under regulation 112(1)(b) is payable and the amount of assistance payable under regulation 112(1)(a) is £50;
  - (f) where the relevant income exceeds £23,680 but is less than £24,280, the maximum amount of assistance available under regulation 112(1)(b) is payable and no assistance is payable under regulation 112(1)(a);

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(4) 1992 c.7; Part VII was amended by Schedule 4 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c.9.), Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)), Article 3(2) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 10)), Schedule 2 to the Social Security (Incapacity for Work) Order 1994 (S.I. 1994/1898 (N.I. 12)), Schedules 2 and 3 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), Schedules 2 and 3 to the State Pension Credit Act (Northern Ireland) 2002 (c.14), Schedule 6 to the Tax Credits Act 2002 (c.21), Article 8(2) of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002/3154 (N.I. 8)), Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 24 to the Civil Partnership Act 2004 (c.33) and Article 18 of the Social Security Benefits Up-rating Order (Northern Ireland) 2006 (S.R. 2006 No. 109)

(5) S.I. 1995/2705 (N.I. 15); Part II was amended by Schedule 1 to the Employments Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)), Schedules 6 and 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), Schedules 7, 8 and 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c.14), Schedule 1 to the National Insurance Contributions Act 2002 (c.19), Schedule 6 to the Income Tax (Earning and Pensions) Act 2003 (c.1), Schedule 24 to the Civil Partnership Act 2004 (c.33) and paragraph 2 of the Schedule to the Pensions (2004 Act and 2005 Order) (PPF Payments and FAS Payments) (Consequential Provisions) Order (Northern Ireland) 2006 (S.R. 2006 No. 37)

(6) 1950 c. 29 (N.I.) Section 1(1) was substituted and sub-sections 1(A), 1(B) and 1(C) inserted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

- (g) where the relevant income is £24,280 or more but less than £26,180, no assistance is available under regulation 112(1)(a) and the amount of assistance payable under regulation 112(1)(b) is the amount left after deducting from the maximum amount of assistance available under regulation 112(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £24,280;
  - (h) where the relevant income is £26,180, no assistance is payable under regulation 112(1)(a) and the amount of assistance payable under regulation 112(1)(b) is £50;
  - (i) where the relevant income exceeds £26,180, no assistance is payable under regulation 112(1).
- (6) Where paragraph (5)(d) applies, the amount of assistance payable under regulation 112(1)(a) is determined by deducting from the maximum amount of assistance available under regulation 112(1)(a) one of the following amounts—
- (a) £50 plus a further £1 for each complete £12, £9.73 or £7.60 by which the relevant income exceeds £15,700 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 112(1)(a) is payable).

### **Interpretation of regulation 113**

**114.**—(1) For the purposes of regulation 113—

- (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 Department, 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 Department 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, it 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 Department from a part-time course (the “initial course”) in connection with which the Department determined the student to be an eligible part-time student pursuant to regulations made under Article 3 of the Order, the specified designated part-time course is the initial course.

### **Assistance with fees in respect of attendance on a course in England, Wales or Scotland**

**115.**—(1) The Department 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 England, Wales, 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 112(1)(a) had he been undertaking the part-time course in Northern Ireland; and
- (b) the maximum amount of support to assist with fees that in the opinion of the Department would have been payable to him according to whether he attends the designated part-time course in England, Wales or Scotland—
  - (i) pursuant to regulations made by the Secretary of State for Education and Skills under section 22 of the 1998 Act had he been ordinarily resident in England and undertaking the part-time course in England;
  - (ii) 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; or
  - (iii) from funds of the Scottish Further and Higher Education Funding Council<sup>(7)</sup> had he been ordinarily resident in Scotland and undertaking the part-time course in Scotland.

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(7) This body was established under section 1 of the Further and Higher Education (Scotland) Act 2005 (2005 asp 6).

### **Disabled part-time students' allowances**

**116.**—(1) An eligible part-time student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Department is satisfied he is obliged to incur by reason of a disability to which he is subject in respect of his undertaking a designated part-time course.

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

(3) An eligible part-time student does not qualify for the grant under this regulation unless the Department considers that he is undertaking the designated part-time course in the United Kingdom.

(4) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Department considers appropriate in accordance with the student's circumstances.

(5) The amount of the grant under this regulation must not exceed—

- (a) £9,315 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £4,905 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 Institute;
- (d) £1,230 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**

**117.**—(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 Department an application in such form as the Department may require.

(2) The application must be accompanied by—

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

(3) The Department may take such steps and make such inquiries as it 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 Department 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 Department 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 (3) of regulation 109 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 Department 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 Department as soon as is reasonably practicable; or

- (c) the Department 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 Department not later than such date as it specifies.

### **Declarations provided by academic authorities**

**118.**—(1) Subject to paragraph (2), the academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Department 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;
- (c) certification by the academic authority that it considers—
  - (i) the course to be a designated part-time course;
  - (ii) that it will be possible for the applicant to complete the course within the period specified in regulation 110(1)(c);

(5) For the purposes of paragraph (4)(c)(ii), the academic authority must have regard to—

- (a) any increase in intensity of study that would be required for the applicant to complete the course within the period specified in regulation 110(1)(c);
- (b) any parts of the course which the applicant has been required to repeat.

### **Information**

**119.** Schedule 4 deals with the provision of information.

### **Transfer of status**

**120.**—(1) Where an eligible part-time student transfers to another part-time course, the Department must transfer the student’s status as an eligible part-time student to that course where—

- (a) it receives a request from the eligible part-time student to do so;
- (b) it 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 Department has determined he qualifies in respect of the academic year of the course from which he transfers.

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

(5) An eligible student who transfers under paragraph (1) after the Department 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 112(1)(b) or regulation 116 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 112(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 113.

### **Conversion of status**

**121.**—(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 Department 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) it 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 110(1)(b) and (c) 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 ordinarily 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 Department 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 sub-

paragraph (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 to 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 Department 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) it 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 Department 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 disabled part-time students' allowance 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**

**122.**—(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 Department considers appropriate and it may make it a condition of entitlement to payment that the eligible part-time student must provide it 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 Department cannot make a final assessment on the basis of the information provided by the student, it 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 Department 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 Department may pay the grant for books, travel and other expenditure and the disabled part-time students' allowance at such times as it considers appropriate.

(5) The Department 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 it has received a declaration under regulation 118 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 Department has received a declaration;
- (b) the Department has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

### **Payment of grants for fees**

**123.**—(1) Subject to paragraphs (2) and (3), the Department 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 Department may make payments under paragraph (1) at such times and in such instalments as it sees fit.

(3) The Department may make provisional payments under paragraph (1) in such cases as it deems appropriate.

### **Overpayments**

**124.**—(1) Any overpayment of a grant in respect of fees is recoverable by the Department from the academic authority.

(2) An eligible part-time student must, if so required by the Department, 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 Department must recover an overpayment of grant for books, travel and other expenditure and disabled part-time students' allowance unless it 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 Department under Article 3 of the Order;
- (b) taking such other action for the recovery of an overpayment as is available to the Department.

(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 Department 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 set out in paragraph (8) or (9), there is an overpayment of the disabled part-time students' allowance unless the Department decides otherwise.

- (8) The circumstances are—
- (a) the Department 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's period of eligibility terminates after the relevant date; and
  - (c) the equipment has not been delivered to the student before the period of eligibility terminated.
- (9) The circumstances are—
- (a) the eligible part-time student's period of eligibility terminates 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 the period of eligibility terminated.
- (10) Where there is an overpayment of the disabled part-time students' allowance, the Department may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if it considers it is appropriate to do so.