

## 1981 No. 1861

**EDUCATION, ENGLAND AND WALES**  
**The Education (Assisted Places) (Amendment)**  
**Regulations 1981**

*Laid before Parliament in draft*

*Made - - - - 22nd December 1981*

*Coming into Operation 1st January 1982*

In exercise of the powers conferred on the Secretary of State by sections 17(6) and 35(4) of the Education Act 1980(a) and after consulting, in accordance with section 17(8) of that Act, such bodies as appear to them to be appropriate and to be representative of schools participating in the assisted places scheme, the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations, a draft of which has been laid before Parliament and has been approved by resolution of each House of Parliament:—

PART I

GENERAL

1.—(1) These Regulations may be cited as the Education (Assisted Places) (Amendment) Regulations 1981, shall come into operation on 1st January 1982 and, subject to the following paragraph, shall have effect as from that date.

(2) Part III of these Regulations shall not have effect until 1st September 1982 except for the purposes of—

- (a) determining a child's eligibility for an assisted place to be taken up on or after that date, and
- (b) determining remission questions (within the meaning of Regulation 9 of the principal Regulations) for a school year, or part of a school year, beginning on or after that date.

2. In these Regulations a reference to the principal Regulations is a reference to the Education (Assisted Places) Regulations 1980(b).

PART II

PROVISIONS HAVING EFFECT AS FROM 1ST JANUARY 1982

3.—(1) At the end of the definition of the expressions “child”, “father” and “mother” in Regulation 2(1) of the principal Regulations there shall be added the words “and it is hereby declared that, notwithstanding the definition in section 114(1) of the Education Act 1944(c), “child” includes a child who is over compulsory school age;”.

(a) 1980 c. 20.

(b) S.I. 1980/1743.

(c) 1944 c. 31.

(2) At the end of the definition of the expression "European Community" in the said Regulation 2(1) there shall be added the words "as constituted from time to time".

(3) In the definition of the expression "national of a member state of the European Community" in the said Regulation 2(1) after the words "(including the United Kingdom)" there shall be inserted the words "as constituted from time to time".

4. For paragraph 3(b) of the Schedule to the principal Regulations (deductions made from total income for tax purposes which are to be disregarded) there shall be substituted the following provision:—

"(b) in pursuance of Part IX of the Act of 1970 or of Chapter II of Part II of the Finance Act 1970, in respect of superannuation or other payments made by a person, or in respect of deductions made from his salary, for the purpose of securing the payment to or in respect of him of pensions, annuities or other future benefits;"

5.—(1) This Regulation shall apply, in the case of a particular assisted pupil, where the provisions of Regulation 4 above would affect the determination of remission questions (within the meaning of Regulation 9 of the principal Regulations) for the school year which includes 1st January 1982.

(2) In such case the said questions shall be determined separately for the first part of that school year falling before that date and for the second part falling on or after that date and—

- (a) the extent to which fees in respect of the first part are to be remitted shall be that proportion of the amount by which the fees for the whole school year would have fallen to be remitted but for Regulation 4 above which the fees for the first part bear to the fees for the whole school year;
- (b) the extent to which fees in respect of the second part are to be remitted shall be that proportion of the amount by which the fees for the whole school year would have fallen to be remitted had Regulation 4 above had effect as from the beginning of the school year which the fees for the second part bear to the fees for the whole school year.

### PART III

#### PROVISIONS HAVING FULL EFFECT ONLY AS FROM 1ST SEPTEMBER 1982

6. For Regulation 2(2) of the principal Regulations (interpretation) there shall be substituted the following provisions:—

"(2) Except where the context otherwise requires, any reference in these Regulations to the parents of a child or assisted pupil is a reference—

- (a) in the ordinary case, to his father and mother or, where one is dead, to the survivor and, should he remarry, his spouse;
- (b) where his parents, defined as in sub-paragraph (a), are divorced or, in any of the circumstances mentioned in paragraph (3), separated, to that one of them who has, or in pursuance of an order of a court is entitled to, actual custody of the child or pupil and, should that person being divorced remarry, his spouse;

- (c) where he has no parents defined as in sub-paragraphs (a) and (b), to his guardian or guardians, if any;
- (d) where he has no parents so defined and no guardian, to the person or persons who have actual custody of the child or pupil.

(2A) Where—

- (a) a child or assisted pupil either has no parents defined as in paragraph (2)(a), (b) or (c) or he has such parents but the school are satisfied that they cannot be found, and
- (b) he is either in the care of a local authority or in the care of a voluntary organisation within the meaning of section 88 of the Children Act 1975(a),

then, for the purposes of these Regulations, he shall be treated as a child whose parents have no income but, subject as aforesaid, any reference to his parents shall be construed as a reference to the authority or organisation in whose care he is.”

7.—(1) Paragraph (1) of Regulation 4 of the principal Regulations (eligibility for assisted places—conditions as to residence) shall be amended as hereinafter provided, that is to say—

- (a) in sub-paragraph (a) thereof, for the words “three years” there shall be substituted the words “two years”, and
- (b) at the end thereof, there shall be added the following provision:—

“or

- (c) in the case of such a child who is a refugee as is mentioned in paragraph (3), have not been ordinarily resident outside the British Islands since he was recognised as a refugee or was granted asylum.”

(2) At the end of the said Regulation 4 there shall be added the following provision:—

“(3) The child who is a refugee referred to in paragraph (1)(c) is a child 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 as extended by the Protocol thereto which entered into force on 4th October 1967 or a child who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty’s government though not so recognised.”

8. For Regulation 5(1) of the principal Regulations (eligibility for assisted places—conditions as to age) there shall be substituted the following provision:—

“5.—(1) It shall be a condition that the child—

- (a) either shall have attained the age of 11 years or, in the case of a child who if selected for an assisted place, would be provided with education with pupils the generality of whom would have attained that age, be of such age that he will have attained the age of 11 years before 1st August next following the beginning of his first assisted year, and
- (b) subject to paragraphs (2) and (3), shall be of such age that he will, on 31st August in the calendar year in which his first assisted year begins, be of an age specified in the participation agreement as a

normal age of entry to the school or will attain that age before 1st August next following the beginning of his first assisted year.”.

9. At the end of Regulation 10(2) of the principal Regulations (references to financial years) there shall be added the following provision:—

“Provided that, where that year ends with a date after 5th April but before the beginning of a school year, then in relation to that school year “preceding financial year” shall mean the year last so ending before 6th April in the calendar year in which the school year begins and “current financial year” shall mean the year so ending on or after that 6th April and before the beginning of the school year.”.

10. For Regulation 11(3) of the principal Regulations (references to income) there shall be substituted the following provision:—

“(3) The relevant income, calculated as aforesaid, shall be reduced by £800 in respect of each person other than the assisted pupil who—

(a) at the time the relevant income is calculated, is wholly or mainly dependent on the parents or on payments made to him or for his benefit by one or both of them, and

(b) is a child or other relative of one or both of the parents:

Provided that, for the purposes of sub-paragraph (a), there shall be disregarded payments, other than sums paid as mentioned in paragraph 3(d) of the Schedule hereto, which fall to be deducted in ascertaining total income for income tax purposes and, accordingly, are taken into account in calculating relevant income in pursuance of paragraph (1).”.

11. For Regulation 14(3) of the principal Regulations (calculation of remission) there shall be substituted the following provision:—

“(3) This paragraph shall apply in a case not falling within paragraph (2) if—

(a) the school are satisfied that the relevant income in the current financial year is, as a result of some event beyond the control of the pupil’s parents, likely to be not more than 85% of the relevant income in the preceding financial year, or

(b) the school, though not satisfied as aforesaid, are satisfied that the relevant income in the current financial year is likely to be so much less than the relevant income in the preceding financial year that financial hardship would result from remission questions being determined by reference to that year and the Secretary of State approves the application of this paragraph;

and, in a case in which this paragraph applies, remission questions shall be determined in relation to the school year in question and, unless and until the Secretary of State otherwise directs, any subsequent school year by reference to the current financial year and, in such case, paragraph (1) shall have effect as if the reference therein to the preceding financial year were a reference to the current financial year.”.

12.—(1) In paragraph (1) of Regulation 15 of the principal Regulations (scales of remission) for the sum “£4,766” there shall be substituted the sum “£5,266”.

(2) For the Table in the said Regulation 15 there shall be substituted the following Table:—

“TABLE

(1) Part of relevant income to which specified percentage applies	(2) Only assisted pupil	(3) Each of two assisted pupils
That part which exceeds £5,100 but does not exceed £5,550	9%	6.75%
That part (if any) which exceeds £5,550 but does not exceed £6,000	12%	9%
That part (if any) which exceeds £6,000 but does not exceed £6,900	15%	11.25%
That part (if any) which exceeds £6,900 but does not exceed £8,300	21%	15.75%
That part (if any) which exceeds £8,300 but does not exceed £10,100	24%	18%
That part (if any) which exceeds £10,100	33%	24.75%”

13.—(1) In sub-paragraph (e) of paragraph 3 of the Schedule to the principal Regulations (deductions made from total income for tax purposes which are to be disregarded), as amended by Regulation 4 above, the word “or” shall be omitted.

(2) After sub-paragraph (f) of the said paragraph 3 there shall be inserted the following provisions:—

“(g) in pursuance of section 37 of the Finance Act 1980(a) (relief for losses on unquoted shares in trading companies), or

(h) in pursuance of Chapter II of Part IV of the Finance Act 1981(b) (relief for investment in new corporate trades).”

22nd December 1981.

*Keith Joseph,*  
Secretary of State for  
Education and Science.

22nd December 1981.

*Nicholas Edwards,*  
Secretary of State for  
Wales.

## EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Education (Assisted Places) Regulations 1980. Part II has effect as from 1st January 1982 but the amendments in Part III do not have effect until 1st September 1982 except for specified preliminary purposes (*Regulation 1*).

Part II clarifies certain definitions (*Regulation 3*). It also amends the provisions relating to the computation of income to take account of certain enactments relating to the treatment of superannuation contributions for income tax purposes contained in the Finance Act 1970 (c. 24) and makes transitory provision as to the determination of remission of fees where this is affected (*Regulations 4 and 5*).

The principal amendments in Part III are described below.

The expression "parents" is redefined and special provision made in relation to children in care (*Regulation 6*). The period for which a child must have been ordinarily resident in the British Islands to be eligible for an assisted place is reduced from three to two years and this requirement is relaxed in the case of refugee children (*Regulation 7*). A child under the age of 11 years is to be selected for an assisted place only if he would be educated with 11-year old pupils (*Regulation 8*). Further provision is made as respects the meaning of "current" and "preceding" financial year in relation to parents whose income is wholly or mainly derived from the profits of a business etc. (*Regulation 9*). The deduction to be made in respect of a dependent relative in determining "relevant income" is increased from £600 to £800 but no deduction is to be made where payments made to the relative qualify for tax relief (*Regulation 10*). Further provision is made as to the cases in which fee remission is to be based on relevant income in the current, instead of the preceding, financial year (*Regulation 11*). The means test for the remission of fees is relaxed and the level of relevant income at or below which fees are to be wholly remitted is set at £5,266 instead of, as at present, £4,766 (*Regulation 12*). In computing income certain deductions made for tax purposes under the Finance Acts of 1980 and 1981 are to be disregarded (*Regulation 13*).

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