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STATUTORY INSTRUMENTS

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**1994 No. 3042**

**EDUCATION, ENGLAND AND WALES**

**The Education (Fees and Awards) Regulations 1994**

*Made* - - - - 30th November 1994  
*Laid before Parliament* 1st December 1994  
*Coming into force* - - 1st January 1995

The Secretary of State for Education, in exercise of the powers conferred on the Secretary of State by sections 1 and 2 of the Education (Fees and Awards) Act 1983(1), hereby makes the following Regulations:

**PART I**  
**GENERAL**

**Citation, operation and extent**

1.—(1) These Regulations may be cited as the Education (Fees and Awards) Regulations 1994 and shall come into force on 1st January 1995.

(2) These Regulations do not extend to Scotland.

**Interpretation**

2.—(1) In these Regulations—

“award” means a fees award or a maintenance award or both as the context may require;

“education” includes post-graduate research otherwise than in the course of employment;

“education authority” means a local education authority;

“employment” means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding of any office and to any occupation for gain;

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(1) 1983 c. 40, amended by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91, by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 19, and by the Education Act 1994 (c. 30), Schedule 2, paragraph 7.

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“European Economic Area” means the area comprised by the member States of the European Community (including the United Kingdom) as constituted from time to time and, subject to the conditions laid down in the EEA Agreement, by the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and, from such date as the EEA Council, established by Article 89 of the EEA Agreement, determines that that Agreement shall enter into force as regards the Principality of Liechtenstein, the Principality of Liechtenstein;

“fees” includes charges however described;

“fees award” means an award in respect only of any fees payable by the student other than any element of those fees representing or attributable to charges for his maintenance;

“the Islands” means the Channel Islands and the Isle of Man;

“maintenance award” means any award other than a fees award;

“national of a member State of the European Community” means a person who is a national for the purposes of the Community Treaties of any member State of the European Community (including the United Kingdom) as constituted from time to time;

“parent”, in relation to a student, includes a guardian and any other person having actual custody of the student during his minority;

“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(2) as extended by the Protocol hereto which entered into force on 4th October 1967(3) and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

(2) In these Regulations a reference to a person’s son or daughter includes a reference to a person adopted in pursuance of adoption proceedings, a step-child and an illegitimate child of whom the person concerned is the mother or in whose case he has admitted paternity or been adjudged the putative father.

(3) For the purposes of these Regulations an area which—

- (a) was not part of the area comprised by the member States of the European Community or by the European Economic Area, but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of those areas

shall be considered to have always been part of the European Economic Area.

(4) Notwithstanding section 11 of the Interpretation Act 1978(4) section 3(2) of the Education (Fees and Awards) Act 1983 (references to the United Kingdom to include references to the Islands) shall not apply for the purpose of the interpretation of these Regulations.

(5) In these regulations, unless the context otherwise requires, a reference to a regulation, Part or Schedule is a reference to a regulation or Part of these Regulations or to a Schedule thereto, a reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule and a reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph of that paragraph.

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(2) Cmd. 9171.

(3) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Higher Education Branch, Awards and Loans Group, Room 1A3, the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT).

(4) 1978 c. 30.

## Lawful acts

3.—(1) Nothing in Part II shall be construed as rendering unlawful any discrimination arising from the remission in whole or in part of any fee (on grounds of financial hardship or otherwise) if it would have been lawful had these Regulations not been made.

(2) Nothing in Part III, IV or V shall be construed as rendering unlawful any discrimination arising from any rule of eligibility for an award if it would have been lawful had these Regulations not been made.

## PART II

### FEES FOR TUITION ETC.

#### Scope of Part II

4.—(1) This Part shall have effect as respects the charging of relevant fees in respect of students attending a full-time or sandwich course provided by—

- (a) a university, or other institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992<sup>(5)</sup>), or
- (b) an institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992), or
- (c) a maintained institution,

and any reference in this Part to a student shall be construed accordingly.

(2) This Part shall also have effect as respects the charging of relevant fees in respect of students attending a full-time or sandwich course of teacher training provided by an eligible institution.

(3) In this Regulation—

“eligible institution” means an institution eligible for funding under Part I of the Education Act 1994<sup>(6)</sup>, other than an institution referred to in paragraph (1);

“full-time course” means a course normally involving not less than 15 hours attendance a week in term-time for the organised day-time study of a single subject or related subjects;

“maintained institution” means an institution maintained by an education authority;

“sandwich course” means a course consisting of alternate periods of full-time study in an establishment and periods of experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year (the course being treated for the purpose of calculating attendance as beginning with the first period of full-time study and ending with the last such period) and, for the purposes hereof “periods of experience” means periods of industrial, professional or commercial experience associated with full-time study at the establishment but at a place outside the establishment except that, in the case of a student studying modern languages whose course includes periods of residence in a country whose language is the main language of that course, it means such periods of residence for which he is in gainful employment;

“university” includes a university college and a constituent college, school, or hall of a university.

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(5) 1992 c. 13.

(6) 1994 c. 30.

### Relevant fees

- 5.—(1) For the purposes of this Part “relevant fees” means the aggregate of—
- (a) any fees for admission, registration or matriculation (including matriculation exemption),
  - (b) any sessional or tuition fees,
  - (c) any composition fee, and
  - (d) any graduation fee,

in each case excluding any element thereof representing or attributable to such fees as are mentioned in paragraph (2).

- (2) The fees referred to in paragraph (1) are—
- (a) college fees or dues at the University of Cambridge, Durham, Kent, Lancaster, Oxford or York;
  - (b) any fees charged by an external body in respect of examinations or validation of a course or otherwise charged by such body whose requirements must (for the purposes of a course) be met;
  - (c) charges for board and lodging.

### Relevant connection with the United Kingdom and Islands

6. For the purposes of this Part a student has a relevant connection with the United Kingdom and Islands if—

- (a) he has been ordinarily resident therein throughout the 3 year period preceding 1st September, 1st January or 1st April closest to the beginning of the first term of the student’s course, and
- (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

### Charging of higher relevant fees

7. Subject to Schedule 1, it shall be lawful to charge higher relevant fees in the case of students who have not a relevant connection with the United Kingdom and Islands than in the case of students having such a connection.

## PART III

### AWARDS UNDER SECTION 1(6) OR 2 OF THE EDUCATION ACT 1962

#### Scope of Part III

8. This Part shall have effect as respects the adoption by an education authority of rules of eligibility for awards under section 1(6) or 2 of the Education Act 1962(7), and any reference in this Part to an award or a candidate for an award shall be construed accordingly.

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(7) 1962 c. 12; the relevant provisions, as amended, are 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.

### **Relevant connection with the United Kingdom and Islands**

**9.** For the purposes of this Part a candidate for an award has a relevant connection with the United Kingdom and Islands if—

- (a) he has been, or satisfies the education authority that he will have been, ordinarily resident therein throughout the 3 year period preceding 1st September, 1st January or 1st April closest to the beginning of the first term of his intended course, and
- (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

### **Authorised eligibility rules**

**10.** Subject to Schedules 2 and 3, it shall be lawful to adopt rules of eligibility for awards which confine the awards to candidates having a relevant connection with the United Kingdom and Islands.

## **PART IV**

### **AWARDS BY RESEARCH COUNCILS AND CERTAIN OTHER INSTITUTIONS**

#### **Scope of Part IV**

**11.**—(1) This Part shall have effect as respects the adoption by a body or institution mentioned in paragraph (2) of rules of eligibility for awards (however described) made by that body or institution in connection with courses of education or training or in connection with the undertaking of research and any reference in this Part to an award, a candidate for an award or the maker of an award shall be construed accordingly.

(2) The bodies and institutions referred to in paragraph (1) are—

- (a) the following research councils—
  - Biotechnology and Biological Sciences Research Council,
  - Economic and Social Research Council,
  - Engineering and Physical Sciences Research Council,
  - Medical Research Council,
  - Natural Environment Research Council, and
  - Particle Physics and Astronomy Research Council;
- (b) the following institutions—
  - the British Academy,
  - the British Museum (Natural History),
  - the Royal Academy of Engineering, and
  - the Royal Society;
- (c) the following further education establishments—
  - Coleg Harlech, Gwynedd,
  - Co-operative College, Loughborough,
  - Fircroft College, Birmingham,
  - Hillcroft College, Surbiton,
  - Northern College, Nr Barnsley,

Plater College, Oxford,  
Royal College of Art, London,  
Ruskin College, Oxford; and  
the National Film and Television School, Beaconsfield.

### **Relevant connection with the United Kingdom and Islands or Great Britain**

**12.** For the purposes of this Part a candidate for an award has a relevant connection with the United Kingdom and Islands, or with Great Britain, if—

- (a) he has been ordinarily resident therein throughout the 3 year period preceding the date of his application for an award, and
- (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

### **Authorised eligibility rules**

**13.—**(1) It shall be lawful to adopt rules of eligibility for awards which—

- (a) subject to Schedules 2 and 3, confine the awards to candidates having a relevant connection either with the United Kingdom and Islands or with Great Britain, as the maker of the awards has determined, and
- (b) if the maker of the awards has so determined, further confine the awards to candidates who, unless they are excepted candidates in pursuance of paragraph 4 of Schedule 2 (temporary employment etc. abroad) or of that paragraph and paragraph 3(1) of Schedule 3
  - (i) are ordinarily resident in the United Kingdom and Islands, in Great Britain, in England and Wales or in England, as the maker of the awards has determined, at the date of application for an award and are not then resident in the area in question wholly or mainly for the purpose of receiving full-time education, or
  - (ii) satisfy the maker of the awards that they will satisfy the aforesaid conditions on 30th June next following the date of their applications.

(2) The maker of the awards may adopt different eligibility rules falling within paragraph (1) for different classes or descriptions of awards.

## **PART V**

### **POSTGRADUATE AGRICULTURAL STUDENTSHIPS**

#### **Scope of Part V**

**14.** This Part shall have effect as respects the adoption by the Minister of Agriculture, Fisheries and Food or the Secretary of State for Wales of rules of eligibility for awards made by him in pursuance of section 2(3) of the Board of Agriculture Act 1889<sup>(8)</sup> and any reference in this Part to an award or a candidate for an award shall be construed accordingly.

#### **Relevant connection with the United Kingdom**

**15.** For the purposes of this Part a candidate for an award has a relevant connection with the United Kingdom if—

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(8) 1889 c. 30.

- (a) he has been ordinarily resident therein throughout the 3 year period preceding the date of his application for an award,
- (b) he has not been resident therein during any part of that 3 year period wholly or mainly for the purpose of receiving full-time education, and
- (c) he is a British citizen or otherwise enjoys in the United Kingdom the status of a Commonwealth citizen.

### **Authorised eligibility rules**

16. Subject to Schedules 2 and 3, it shall be lawful to adopt rules of eligibility for awards which confine the awards to candidates having a relevant connection with the United Kingdom.

## **PART VI REVOCATION**

### **Revocation**

17. The following Regulations are revoked:

- (a) The Education (Fees and Awards) Regulations 1983**(9)**;
- (b) The Education (Fees and Awards) (Amendment) Regulations 1984**(10)**;
- (c) The Education (Fees and Awards) (Amendment) Regulations 1985**(11)**;
- (d) The Education (Fees and Awards) (Amendment) Regulations 1987**(12)**;
- (e) The Education (Fees and Awards) (Amendment) Regulations 1988**(13)**;
- (f) The Education (Fees and Awards) (Amendment) Regulations 1991**(14)**;
- (g) The Education (Fees and Awards) (Amendment) (No 2) Regulations 1991**(15)**;
- (h) regulation 5 of the Further and Higher Education Act 1992 (Consequential Amendments) Regulations 1993**(16)**; and
- (i) regulation 5 of the Education (European Economic Area) (Amendment) Regulations 1993**(17)**.

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**(9)** S.I.1983/973.  
**(10)** S.I. 1984/1201.  
**(11)** S.I. 1985/1219.  
**(12)** S.I. 1987/1364.  
**(13)** S.I. 1988/1391.  
**(14)** S.I. 1991/830;  
**(15)** S.I. 1991/1839.  
**(16)** S.I. 1993/559.  
**(17)** S.I. 1993/3183.

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## SCHEDULE 1

### FEES—EXCEPTED STUDENTS

1. It shall not be lawful in pursuance of regulation 7 to charge higher fees in the case of a student who is an excepted student within the meaning of these Regulations.

2.—(1) A person who—

- (a) is a national of a member State of the European Community, or
- (b) is the son or daughter of such a national

shall be an excepted student if he satisfies the conditions mentioned in sub-paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that—

- (a) he has, throughout the 3 year period referred to in regulation 6(a), been ordinarily resident within the European Economic Area, and
- (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

3. A person shall be an excepted student if—

- (a) (i) he is a refugee, or  
(ii) he has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom, and he has been granted leave to enter or remain accordingly, and he has been ordinarily resident in the United Kingdom and Islands throughout the period since he was recognised as a refugee or granted leave to enter or remain, as the case may be; or
- (b) the person is the spouse, son or daughter of a person of the kind described in sub-paragraph (a).

4.—(1) A person shall be an excepted student if—

- (a) at the date referred to in regulation 6(a) he is settled in the United Kingdom, and
- (b) he neither had the right of abode in the United Kingdom nor was settled therein at, or at a time before, the beginning of the 3 year period so referred to.

(2) References in this paragraph to a person having the right of abode in the United Kingdom or being settled therein have the same meanings as in the Immigration Act 1971(18).

5. A person shall be an excepted student if—

- (a) he has not been ordinarily resident throughout the 3 year period referred to in Regulation 6(a) in the United Kingdom and Islands, or
- (b) being a national of a member State of the European Community or the son or daughter of such a national he has not been so ordinarily resident in the European Economic Area,

only because he, his spouse or his parent was temporarily employed outside the United Kingdom and Islands or, as the case may be, outside the European Economic Area.

6. A person shall be an excepted student if he was admitted to his course in pursuance of arrangements with an institution outside the United Kingdom for the exchange of students on a fully reciprocal basis.

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(18) 1971 c. 77, amended by section 39 of the British Nationality Act 1981 (c. 61).



7. A person shall be an excepted student if he is a person to whom Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on free movement for workers within the Community(19), as extended by the EEA Agreement, applies and—

- (a) he has, throughout the 3 year period referred to in regulation 6(a), been ordinarily resident within the European Economic Area, and
- (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

8. A person shall be an excepted student if he has not been ordinarily resident within the European Economic Area as required by paragraph 7(a) only because he, his spouse, or his parent was temporarily employed elsewhere.

9. For the purposes of this Schedule fees shall be considered to be charged on the last date or dates on which they are required to be paid by the student, and not on the date or dates on which the student enters an agreement to pay them, or on which he receives an account in respect of them.

## SCHEDULE 2

### MAINTENANCE AWARDS—EXCEPTED CANDIDATES

1. It shall not be lawful in pursuance of regulation 10, 13(1)(a), or 16 to adopt rules of eligibility for maintenance awards which exclude from eligibility a person who is an excepted candidate within the meaning of this Schedule.

2. A person shall be an excepted candidate if—

- (a) he is eligible for a maintenance award by virtue of Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community as extended by the EEA Agreement, and
- (b) he would have a relevant connection with the European Economic Area for the purposes of Part III, Part IV or, as the case may be, Part V had any reference in regulation 9, in regulation 12, or in regulation 15 to the United Kingdom and Islands or to the United Kingdom been a reference to the European Economic Area, and had sub-paragraph (c) of regulation 15 been omitted.

3. Subject to paragraph 5, a refugee ordinarily resident in the United Kingdom and Islands who has not ceased to be so ordinarily resident since he was recognised as a refugee, and the spouse or son or daughter of such a refugee, shall be an excepted candidate.

4.—(1) Subject to paragraph 5, a person shall be an excepted candidate—

- (a) for the purposes of Part III, if he has not the relevant connection with the United Kingdom and Islands mentioned in regulation 9,
- (b) for the purposes of Part IV, if he has not the relevant connection with the United Kingdom and Islands or with Great Britain mentioned in regulation 12 as the maker of the awards has determined in pursuance of regulation 13(1)(a) and, where the eligibility rules adopted contain such provision as is mentioned in regulation 13(1)(b), if he is not, and cannot satisfy the maker of the awards that he will be, ordinarily resident as mentioned therein,
- (c) for the purposes of Part V, if he has not the relevant connection with the United Kingdom mentioned in regulation 15,

by reason only that—

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(19) OJ No. L257, 19.10.68, p.2 (OJSE 1968 (II) p.475).

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- (i) he, his spouse or his parent was temporarily employed outside the relevant area referred to in the sub-paragraph in question, or
- (ii) in the case only of Part IV or V, he or his spouse was temporarily receiving full-time education outside the relevant area referred to in sub-paragraph (b) or, as the case may be, sub-paragraph (c).

(2) Subject to paragraph 5, a person shall be an excepted candidate if he would be such in pursuance of paragraph 2 but for his not having such a relevant connection with the European Economic Area as is mentioned in that paragraph—

- (a) for the purposes of Part III,
- (b) for the purposes of Part IV, or
- (c) for the purposes of Part V

as the case may be, where he has not that relevant connection by reason only that—

- (i) he, his spouse or his parent was temporarily employed outside the European Economic Area;
- (ii) in the case only of Part IV or V, he or his spouse was temporarily receiving full-time education outside the European Economic Area.

5. Such persons as are mentioned in paragraph 3 or, as the case may be, in paragraph 4 shall only be excepted candidates where the maker of the awards has so determined.

### SCHEDULE 3

#### FEES AWARDS—EXCEPTED CANDIDATES

1.—(1) In this Schedule “the relevant date” means, in relation to a candidate for a fees award, the date of his application therefor, except that, where the maker of the awards is—

- (a) an education authority, or
- (b) a further education establishment mentioned in regulation 11(2)(c),

it means 1st September, 1st January or 1st April closest to the beginning of the first term of the candidate’s intended course or, as the case may be, of the period for which he would undertake research.

2.—(1) It shall not be lawful in pursuance of regulation 10 to adopt rules of eligibility for fees awards under section 1(6) of the Education Act 1962 which exclude from eligibility a person who is an excepted candidate within the meaning of Schedule 2.

(2) It shall not be lawful in pursuance of regulation 10 to adopt rules of eligibility for fees awards under section 2 of the Education Act 1962 which exclude from eligibility a person who is an excepted candidate within the meaning of this Schedule.

(3) It shall not be lawful in pursuance of regulations 13(1)(a) or 16 to adopt rules of eligibility for fees awards which exclude from eligibility a person who is an excepted candidate within the meaning of this Schedule.

3.—(1) A person who is an excepted candidate within the meaning of Schedule 2 shall be an excepted candidate within the meaning of this Schedule.

- (2) Subject to paragraph 4 a person who—
  - (a) is a national of a member State of the European Community; or
  - (b) is the son or daughter of such a national

shall be an excepted candidate if he satisfies the conditions mentioned in sub-paragraph (3).

- (3) The conditions referred to in sub-paragraph (2) are that—
- (a) he has been ordinarily resident in the European Economic Area throughout the 3 year period preceding the relevant date; and
  - (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

4. A candidate who would but for this paragraph be an excepted candidate by virtue of paragraph 3(2) and (3) shall not be an excepted candidate in a case where rules of eligibility confine awards to candidates having a relevant connection with part only of the United Kingdom and Islands and he is, on the relevant date, ordinarily resident in some other part of the United Kingdom and Islands.

5. The condition set out in paragraph 3(3)(a) is satisfied if a person has not been ordinarily resident in the European Economic Area throughout the 3 year period preceding the relevant date only because he, his spouse or his parent was temporarily employed outside that area or only because he or his spouse was temporarily receiving full-time education outside that area.

30th November 1994

*Gillian Shephard*  
Secretary of State for Education

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st January 1995, consolidate the Regulations revoked by regulation 17, with some modifications.

They provide that subject to specified exceptions in the cases mentioned below it shall be lawful to differentiate between students with and those without a specified connection with the United Kingdom, including the Channel Islands and the Isle of Man, or with a particular part of the United Kingdom, either as respects fees charged or in rules of eligibility for awards. Such differentiation would otherwise be unlawful under the Race Relations Act 1976. Nothing in the Regulations is to be construed as rendering unlawful anything done which would have been lawful had the Regulations not been made (regulation 3).

Part II relates to tuition and certain other fees (“relevant fees”) in respect of full-time or sandwich courses provided by universities, other institutions within the higher education sector, institutions within the further education sector or institutions maintained by local education authorities (regulations 4 and 5). Students who have not been ordinarily resident in the United Kingdom and Islands, or who have been so resident but at any time during the three year period have been resident wholly or mainly for the purpose of receiving full-time education, may be charged higher relevant fees (regulations 6 and 7). Schedule 1 provides that higher relevant fees may not be charged to nationals of member States of the European Community with a corresponding connection with the European Economic Area, to refugees or to recently arrived immigrants.

Part III relates to rules of eligibility for discretionary awards made by local education authorities under section 1(6) or 2 of the Education Act 1962 (regulation 8). The rules adopted by an authority may provide that such students as are mentioned above should be ineligible for the awards

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(regulations 9 and 10). Schedule 2 and Schedule 3 provide for exceptions in relation to “excepted candidates”.

Part IV relates to the rules of eligibility for awards made by the Research Councils and certain other specified institutions (regulation 11), and makes provision similar to that made by Part III (regulations 12 and 13). However it is provided that if the maker of the awards so determines, the required connection may be with Great Britain instead of with the United Kingdom and Islands, and that the awards may be confined to candidates currently ordinarily resident in, or in a specified Part of, the United Kingdom and Islands. Schedules 2 and 3 provide for exceptions in relation to “excepted candidates”.

Part V relates to the rules of eligibility for postgraduate agricultural studentships made by the Minister of Agriculture, Fisheries and Food or the Secretary of State for Wales (regulation 14) and again makes provision similar to that made by Part III (regulations 15 and 16). However it is provided that the required connection is with the United Kingdom instead of the United Kingdom and Islands, and that the rules may require a candidate to be a British or Commonwealth citizen. Schedules 2 and 3 provide for exceptions in relation to “excepted candidates”.

“Excepted candidates” for the purposes of Part III, IV and V are defined in Schedule 2 in relation to maintenance awards and in Schedule 3 in relation to fees awards. They include the children of European Economic Area migrant workers and such workers themselves who seek an award in respect of a vocational training course at a vocational training establishment. If the maker of the award so determines they also include refugees and candidates who do not have the relevant connection with England and Wales, Great Britain, the United Kingdom, the United Kingdom and Islands or the European Economic Area only because they, their spouses or their parents were temporarily employed outside the relevant area. In relation to fees awards they also include nationals of member States of the European Community and the sons and daughters of such nationals who have a relevant connection with the European Economic Area.

The most significant modifications to the Regulations consolidated which have been made by these Regulations relate to the accession of new member States to the European Community. It is provided that a territory which was not part of the area of the European Community or the European Economic Area but which is now part of those areas shall be considered to have always been part of the European Economic Area, so that residence in such area before the accession of the relevant member State shall be considered to be residence in the European Economic Area (regulation 2(3)). It is also provided that the lawfulness of charging higher rate fees must be determined by reference to that last date on which the fees are required to be paid by the student, so that a national of a member State required to pay an instalment after the date on which the State acceded to the European Community may not be charged higher rate fees in respect of that instalment (Schedule 1, paragraph 9).