
STATUTORY INSTRUMENTS

1999 No. 2168

EDUCATION, ENGLAND

**The Education Maintenance Allowance
(Pilot Areas) Regulations 1999**

<i>Made</i>	- - - -	<i>29th July 1999</i>
<i>Laid before Parliament</i>		<i>30th July 1999</i>
<i>Coming into force</i>	- -	<i>25th August 1999</i>

In exercise of the powers conferred on the Secretary of State by sections 518 and 569(4) of the Education Act 1996⁽¹⁾ the Secretary of State for Education and Employment hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education Maintenance Allowance (Pilot Areas) Regulations 1999 and shall come into force on 25th August 1999.

Interpretation

2.—(1) In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992⁽²⁾;

“academic year” means the period from 1st September in one year to 31st August in the next year, except that where the first term of an institution to begin after July begins before 1st September, the academic year is the period beginning at the start of that term and ending immediately before the start of the first such term in the following year;

“advanced education” and “full-time education” have the same meaning as in regulation 1(2) of the Child Benefit (General) Regulations 1976⁽³⁾;

“education maintenance allowance learning agreement” has the meaning given in regulation 7;

“relevant area” means—

- (a) the area of any of the relevant authorities except for the London Boroughs of Greenwich, Lambeth, Lewisham and Southwark and the City of Leeds; and

(1) 1996 c. 56; section 518 was substituted by section 129 of the School Standards and Framework Act 1998 (c. 31).

(2) 1992 c. 4.

(3) S.I.1976/965; a relevant amending instrument is S.I. 1987/357.

- (b) the areas of the wards in the London Boroughs of Greenwich, Lambeth, Lewisham and Southwark specified in Part II of Schedule 1;

“relevant authority” means a local education authority specified in Part I Schedule 1;

“relevant educational establishment” means—

- (a) a school maintained by a local education authority;
- (b) an independent school within the meaning of section 463 of the Education Act 1996 other than one whose registration under section 465 of that Act is provisional only;
- (c) an institution within the further education sector; or
- (d) any other education institution which the local education authority considers appropriate;

“parent” –

- (a) in regulations 5 and 6(1)(c) means the mother or father of the student (including the mother or father by adoption) but not any other person with parental responsibility for the student; and
- (b) elsewhere in these Regulations has the same meaning as in section 576 of the Education Act 1996; and

“week” means a period of 7 days beginning with a Monday.

(2) For the purposes of these Regulations a student is a looked after student if he is looked after by a relevant authority and in this paragraph “looked after” shall be construed in accordance with section 22 of the Children Act 1989(4).

(3) For the purposes of these Regulations a student is an independent student if the student is—

- (a) entitled to income support under Part VII of the 1992 Act on the basis that the student is—
- (i) estranged from his parents; or
- (ii) a parent; or
- (b) where sub-paragraph (a) does not apply, if the student is—
- (i) aged 18 and in the opinion of the relevant authority estranged from his parents; or
- (ii) aged 19.

(4) Any reference in these Regulations to a person responsible for a pupil shall be construed in accordance with section 143 of the 1992 Act.

(5) Any reference in these Regulations to a student being educated otherwise than at an institution is a reference to a student being so educated under arrangements made by a relevant authority under section 19 of the Education Act 1996.

Payment of education maintenance allowance

3.—(1) Subject to the provisions of these Regulations a relevant authority may pay any of the allowances specified in regulation 8, 9 or 10 in respect of any student over compulsory school age if—

- (a) the conditions specified in regulation 4(1) are satisfied in the case of a relevant authority other than Leeds City Council, or the condition specified in regulation (2) is satisfied in the case of Leeds City Council;
- (b) the condition specified in regulation 5 is satisfied, unless the student is one in respect of whom the condition specified in regulation 4 is satisfied by virtue of the student being a looked after student; and

(4) 1989 c. 49.

(c) such of the conditions specified in regulation 6 as are applicable to the student in question are satisfied.

(2) Nothing in regulation 4 of the Local Education Authority (Post-Compulsory Education Awards) Regulations 1999(5) shall apply in relation to the payment of any of the allowances specified in regulations 8, 9 or 10

Residence etc. or school condition

4.—(1) The conditions specified in this paragraph are—

- (a) unless sub-paragraph (b) or (c) applies, that a person responsible for the student was ordinarily resident in a relevant area on any date during the relevant period and that child benefit was paid to that person under Part IX of the 1992 Act for the week in which that date falls; or
- (b) where the student was an independent student, that the student was ordinarily resident in a relevant area on any date during the relevant period; or
- (c) that the student was a looked after student, other than a student looked after by Leeds City Council on any date during the relevant period.

(2) The condition specified in this paragraph is that the student was at any time during the 1998–9 or 1999–2000 school year a pupil at a school specified in Schedule 2 (schools in Leeds).

(3) In this regulation “the relevant period” means the period starting on 30th June immediately before the start of the academic year in respect of which the allowance is paid and ending at the start of that academic year.

Income condition

5.—(1) The condition specified in this regulation is, subject to paragraph (4),—

- (a) if paragraph (2) applies, that the aggregate of the incomes of the student’s parents did not, during the tax year ending before the start of the academic year in respect of which the allowance is paid, exceed the relevant amount;
- (b) if paragraph (3) applies, that the income of the student’s parent with whom the student normally resides did not, during the tax year ending before the start of the academic year in respect of which the allowance is paid, exceed the relevant amount; and
- (c) if neither paragraph (2) nor paragraph (3) applies or the student was one in respect of whom the condition in regulation 4 was satisfied by virtue of being an independent student other than one falling within sub-paragraph (b)(ii) of the definition of independent student, that the income of the student did not, during the tax year ending before the start of the academic year in respect of which the allowance is paid, exceed the relevant amount.

(2) This paragraph applies where—

- (a) the student’s parents live together as husband and wife (whether or not they are married to each other) and the student normally resides with his parents; or
- (b) the student’s parents do not live together as husband and wife, the student normally resides with one of his parents and paragraph (3) does not apply.

(3) This paragraph applies where the student’s parents do not live together as husband and wife and—

- (a) the student normally resides with one of his parents; and
- (b) the income of the other parent cannot reasonably practicably be ascertained or verified.

(4) Where the condition contained in paragraph (1) is not satisfied but it appears to the local education authority (whether before or after the start of an academic year) that the income of the persons referred to in paragraph 1(a), (b) or (c) (as the case may be) is likely, during the tax year following that referred to in paragraph (1)–

- (a) not to exceed the relevant amount; and
- (b) to be not more than 85% of the person’s income during the tax year referred to in paragraph (1),

the authority may determine that the condition contained in paragraph (1) is to be treated as satisfied.

(5) For the purposes of this regulation the income of a person, subject to paragraph (6), is the person’s total income within the meaning of section 835 of the Income and Corporation Taxes Act 1988⁽⁶⁾.

(6) Where paragraph (3) applies, and the income of the parent with whom the student normally resides includes a maintenance payment, that parent’s income for the purpose of this regulation shall be computed as though such payment were part of his total income whether or not such payment or any part of it would be included in his total income for tax purposes.

(7) For the purposes of paragraph (6) “maintenance payment” means a periodical payment (not including an instalment of a lump sum) which–

- (a) is made pursuant to an order made by a court (whether in the United Kingdom or elsewhere) or under any arrangement made by the Child Support Agency pursuant to the Child Support Act 1991⁽⁷⁾ or under a separation agreement; and
- (b) is made by:
 - (i) one of the parties to a marriage (including a marriage which has been dissolved or annulled) to or for the benefit and for the maintenance of the other party; or
 - (ii) one or both of the parents of the student to or for the benefit, and for the maintenance or education, of any child of one or both of the parents; or
 - (iii) by another person to or for the benefit, and for the maintenance or education, of a child (including the student) of one or both of the parents of the student; and
- (c) is due at a time when–
 - (i) as regards a maintenance payment of the nature described in sub-paragraph (b)(i), the said parties are not living together as husband and wife; or
 - (ii) as regards a maintenance payment of the nature described in sub-paragraph (b)(ii) or (iii), the person making the payment does not reside in the same household as the child to whom or for whose benefit the payment is made.

(8) In this regulation–

- (a) “parent” means the mother or father of the student (including a mother or father by adoption) but not any other person with parental responsibility for the student; and
- (b) “the relevant amount” means
 - (i) £20,000 where the relevant authority is a local education authority in Greater London; and
 - (ii) £30,000 in any other case.

Other Conditions

6.—(1) The conditions specified in this regulation are–

⁽⁶⁾ 1988 c. 1.
⁽⁷⁾ 1991 c. 48.

- (a) that the student, unless he was educated otherwise than at school, was during the 1998–9 or 1999–2000 school year in a class in which the majority of students reached the age of 16;
- (b) that—
 - (i) a parent of the student has signed an education maintenance allowance learning agreement, unless the student is an independent student or a looked after student when he starts to attend the institution; or
 - (ii) a person nominated by the relevant authority has signed an education maintenance allowance learning agreement, if the student is a looked after student when he starts to attend the institution,in each case relating to the student and to the institution which the student attends (or, if the student attends more than one institution, relating to each institution which the student attends); and
- (c) that the student and the student’s parents provide the relevant authority with such information and make such declarations as the authority may reasonably require.

(2) Where a student is to be educated otherwise than at an institution paragraph (1)(b) shall have effect as if references to attending the institution had effect as references to being educated otherwise than at an institution and the reference to the institution which the pupil attends had effect as a reference to the education which the student is to be provided with.

Meaning of education maintenance allowance learning agreement

7.—(1) For the purposes of these Regulations an education maintenance allowance learning agreement is a document—

- (a) specifying responsibilities which the institution intends to discharge in connection with the education of the student in question;
- (b) specifying, unless the student is an independent student, the responsibilities which the parents of the student are expected to discharge in connection with the education of the student in question; and
- (c) specifying or providing for the specification of the institution’s expectations of the student, that is to say the expectations of the institution as regards—
 - (i) attendance,
 - (ii) the completion of tasks assigned to the student,
 - (iii) the conduct of the student,
 - (iv) any other appropriate matter; and
- (d) which states the effect of regulations 8, 9 and 10.

(2) Where a student is to be educated other than at an institution paragraph (1) shall have effect as if—

- (a) for “the institution” there were substituted “the local education authority”; and
- (b) sub-paragraph (c)(i) were omitted.

Weekly allowance

8.—(1) Subject to paragraphs (2) and (3) an allowance (“a weekly allowance”) may be paid in respect of each week during which the student—

- (a) is in full-time education at a relevant educational establishment for the purpose of being provided with education which is not advanced education;

- (b) is being educated otherwise than at an institution, is being provided with education which is not advanced education and in the opinion of the relevant authority in question is in full-time education; or
 - (c) is undertaking unsupervised study for the purpose of preparation for an examination which he is entering in connection with the education referred to in sub-paragraph (a) or (b).
- (2) No weekly allowance shall be paid—
- (a) in respect of any week any part of which falls outside the term of the institution which the student attends;
 - (b) in respect of any week if the institution has notified the relevant authority that in their opinion the student has without good reason failed to attend the institution or do any other thing that is expected of him in accordance with the learning agreement;
 - (c) in respect of the week in which the pupil reaches the age of 20 or any subsequent week;
 - (d) in a case where regulation 5(4) applies and the relevant authority determines after the beginning of the academic year that the condition contained in regulation 5(1) is to be treated as satisfied, in respect of any week in a term before the term following the date on which the relevant authority so determine;
 - (e) if payment of a weekly allowance has already been made in respect of the relevant number of terms;
 - (f) if payment of a weekly allowance has already been made, or would have been made but for sub-paragraph (b), in respect of 38 weeks in the academic year in question; or
 - (g) in respect of any week in which the student is in receipt of a jobseeker’s allowance (payable under the Jobseekers Act 1995)(8) or a training allowance.
- (3) For the purpose of paragraph (2)(e)
- (a) a payment of a weekly allowance is made “in respect of” a term if a payment is made or would have been made but for paragraph (2)(b) in respect of any week falling within that term;
 - (b) the relevant number of terms is—
 - (i) where, during the school year in which he ceased to be of compulsory school age, the student had a statement of special educational needs made under section 324 of the Education Act 1996, three times the number of terms in each academic year; and
 - (ii) in any other case, twice the number of terms in each academic year;
 - (c) in a case where regulation 5(4) applies and the relevant authority determines after the beginning of the academic year that the condition contained in regulation 5(1) is to be treated as satisfied, payment of a weekly allowance shall be treated as having been made in respect of each term in the academic year in which the relevant authority so determines.
- (4) Where a student is educated otherwise than at an institution paragraph (2) shall have effect as if—
- (a) sub-paragraph (a) were omitted; and
 - (b) for sub-paragraph (b) there were substituted—
 - “(b) in respect of any week if the relevant authority are of the opinion that the student has without good reason failed to do anything that is expected of him in accordance with the learning agreement;”.

(5) In the regulation “training allowance” means a payment made by the Secretary of State to a person in connection with his use of facilities arranged by the Secretary of State pursuant to section 2 of the Employment and Training Act 1973(9).

Termly bonus

9.—(1) Except where paragraph (2) or (3) applies, and subject to paragraph (4), an allowance (“a termly bonus”) may be paid in respect of any term where the institution has notified the relevant authority that in its opinion the student has attended the institution for 95% of the hours for which he is expected to attend in accordance with the learning agreement and has otherwise done everything else expected of him under the learning agreement or had good reason for failing to do so.

(2) Where a student has attended more than one institution a termly bonus may, subject to paragraph (4), be paid in respect of any term where—

- (a) the local education authority determine (in the light of notifications from the institutions giving their opinion as to the numbers of hours for which the student has attended the institution and the number of hours for which he is expected to attend the institution in accordance with the learning agreement) that the student has attended the institutions taken together for 95% of the aggregate of the hours which he is expected to attend in accordance with the learning agreements; and
- (b) each institution has notified the relevant authority that the pupil has otherwise done everything else expected of him under the learning agreement.

(3) Where a student is educated otherwise than at an institution a termly bonus may, subject to paragraph (4), be paid in respect of any term where the local education authority are of the opinion that the student has done everything expected of him under the learning agreement.

(4) No termly bonus shall be paid—

- (a) in respect of any term which starts after the student has reached the age of 20; or
- (b) if a weekly allowance cannot be paid in respect of any week in that term by reason of regulation 8(2)(e)

Achievement bonus

10.—(1) Subject to paragraph (2) an allowance (“an achievement bonus”) may be paid in respect of any student who achieves any learning goal arising from being in full time education.

(2) No achievement bonus shall be paid—

- (a) in respect of any learning goal where the course which led to the achievement of such learning goal started after the pupil reached the age of 20;
- (b) if an achievement bonus has already been paid—
 - (i) three times, where during the school year in which he ceased to be of compulsory school age, the student had a statement of special educational needs made under section 324 of the Education Act 1996; or
 - (ii) twice in any other case; or
- (c) if an achievement bonus has already been paid in respect of another learning goal where the course which led to that learning goal ended in the same academic year as the course which led to the learning goal in question.

(9) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1998 (c. 19) and subsections (4) and (6) were repealed by the Employment Act 1989 (c. 38) Schedule 7 Part 1.

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

(3) In this regulation “learning goal” means a standard of achievement (whether taking the form of a qualification or not) which is specified in relation to the student in the education maintenance allowance learning agreement.

29th July 1999

Tessa Blackstone
Minister of State,
Department for Education and Employment

SCHEDULE 1

Regulation 2

RELEVANT AUTHORITIES AND WARDS IN LONDON BOROUGHS

PART I

RELEVANT AUTHORITIES

Bolton
Cornwall
Doncaster
Gateshead
Greenwich
Lambeth
Leeds
Lewisham
Middlesbrough
Nottingham
Oldham
Southampton
Southwark
Stoke on Trent
Walsall

PART II

WARDS IN LONDON BOROUGHS

In Greenwich: Ferrier, Sherard, Middle Park, Kidbrooke, Well Hall, Herbert, Eynsham, St Mary's, West, Nightingale, Glyndon, Charlton

In Lambeth: Angell, Bishop's, Town Hall, St Martin's, Gipsy Hill, Prince's, Larkhall, Ferndale

In Lewisham: Bellingham, Churchdown, Downham, Whitefoot, Drake, Evelyn, Grinling Gibbons, Marlowe, Pepys

In Southwark: Abbey, Bricklayers, Cathedral, Chaucer, Riverside, Consort, Friary, Liddle, Faraday

SCHEDULE 2

Regulation 4

SCHOOLS IN LEEDS

Agnes Stewart C of E High School
Allerton Grange School
Braum Wood High School for Boys
Broomfield School

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Carr Manor High School
City of Leeds School
Cockburn High School
Copperfields College
Corpus Christi RC High School
Elmete Wood School
Farnley Park High School
Green Meadows School
Intake High School Arts College
John Jamieson School
John Smeaton Community High School
Lawnswood School
Matthew Murray High School
Merlyn Rees Community High School
Middleton Park High School
Milestone School
Mount St Mary's High School
Parklands Girls' High School
Penny Field School
Primrose High School
Roundhay School
St Michael's College
Stonegate School
Temple Moor High School
Victoria Park Special School
West Leeds High School
West Oaks Special School
Wortley High School

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of allowances by local education authorities listed in Part I of Schedule 1 to or in respect of students over compulsory school age.

Regulations 4 to 6 provide for the conditions which have to be satisfied if allowances are to be paid. Regulation 4 provides for conditions as to residence or, where the allowance is to be paid by Leeds

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City Council, attendance at a school in Leeds. Regulation 5 provides for conditions as to income and regulation 6 provides for other conditions. Amongst the other conditions is a condition relating to signature of an education maintenance allowance learning agreement (an expression defined in regulation 7) by a parent.

Regulation 8, 9 and 10 prescribe further circumstances in which each of the allowances, that is the weekly allowance, the termly bonus and the achievement bonus, can be paid.