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STATUTORY INSTRUMENTS

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**2001 No. 951**

**The Education (Student Support) Regulations 2001**

**PART VIII**

**SUPPORT FOR PART-TIME COURSES**

**Eligible part-time students**

**28.**—(1) Subject to and in accordance with this Part a person shall be eligible for support in connection with his undertaking a designated part-time course if he is a person mentioned in Schedule 1.

(2) A person shall not be eligible under this regulation if:

- (a) he is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule;
- (b) there has been bestowed on him or paid to him in relation to his undertaking the part-time course—
  - (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968<sup>(1)</sup> or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(2)</sup> whether the amount of which is calculated by reference to his income or not; or
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992<sup>(3)</sup>;
- (c) he is in breach of any obligation to repay any loan;
- (d) he has not ratified any agreement for a loan made with him when he was under the age of 18; or
- (e) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.

(3) For the purposes of paragraph 2(c) and (d) “loan” means a loan made under the Education (Student Loans) Act 1990<sup>(4)</sup>, the Education (Student Loans) (Northern Ireland) Order 1990<sup>(5)</sup>, the

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(1) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I.1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

(2) S.I. 1972/1265 (N.I. 14).

(3) S.I. 1992/580.

(4) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3.

Education (Scotland) Act 1980 (6) and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998 (7) and regulations made thereunder, or the Act and regulations made thereunder.

(4) Paragraph 2(d) shall only apply, in a case where the agreement for a loan is subject to the law of Scotland, if it 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.

(5) A person shall not be eligible for support for more than one designated part-time course at any one time.

(6) Where a person who meets the requirements of this regulation is notified of that fact by the Secretary of State under regulation 32(6) he shall thenceforth be an “eligible part-time student” for the purposes of these Regulations.

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

**29.**—(1) Subject to paragraph (3), a part-time course shall be designated for the purposes of section 22(1) of the Act and regulation 28(1) if—

- (a) it is mentioned in Schedule 2;
- (b) it exceeds one academic year’s duration and does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
- (c) it is wholly provided by an educational institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or is provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not designated by or under regulation 5.

(2) Paragraphs (5) and (6) of regulation 5 shall apply for the purposes of paragraph (1) as they apply for the purposes of paragraph (1) of that regulation.

(3) For the purposes of section 22 of the Act and regulation 28(1) the Secretary of State may designate part-time courses of higher education which are not designated by paragraph (1).

### **Eligibility for loans for part-time courses**

**30.**—(1) Subject to and in accordance with the following paragraphs, an eligible part-time student shall be eligible for a loan if:

- (a) he is under the age of 50 on the first day of the first academic year of the course; or
- (b) he is aged 50 or over and under the age of 55 on that day, if the Secretary of State is satisfied that he intends to enter employment after he has completed his part-time course or such other higher education course which he intends to start undertaking immediately after completing his present course, disregarding any intervening vacation; and
- (c) in respect of the second and any subsequent year of his part-time course, he is ordinarily resident in England and Wales on the first day of the academic year.

(2) An eligible part-time student shall not be eligible for a loan if—

- (a) he holds a first degree from an educational institution in the United Kingdom; or

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(5) S.I. 1990/1506 (N.I. 11).

(6) 1980 c. 44, amended by the Teaching and Higher Education Act 1998 (c. 30), section 29.

(7) S.I. 1998/1760 (N.I. 14).

- (b) there have been paid to him 6 loans in connection with his undertaking one or more designated part-time courses.
- (3) An eligible part-time student shall be eligible for a loan in respect of—
- (a) an academic year during which—
- (i) his course becomes a designated part-time course,
- (ii) he or his spouse or parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1, or
- (b) any academic year which begins after the events referred to in paragraph (a)
- but shall not be eligible for a loan in respect of any other academic year.
- (4) Subject to paragraph (5), an eligible part-time student shall not be eligible for a loan if he is a prisoner serving a custodial sentence.
- (5) Paragraph (4) shall 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.
- (6) An eligible part-time student who is eligible for a loan in respect of an academic year in accordance with the preceding paragraphs shall be eligible for a loan in respect of that year if—
- (a) at the date of his application for the loan, he or his spouse is entitled under Part VII of the Social Security Contributions and Benefits Act 1992(8) to income support(9), working families' tax credit(10), disabled person's tax credit(11), housing benefit(12), or council tax benefit(13); or
- (b) his financial resources for the preceding financial year do not exceed £13,000.
- (7) For the purposes of paragraphs (6) and (9) an eligible part-time student's financial resources for 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 his application for the loan is his spouse.
- (8) In calculating an eligible part-time student's income under this regulation there shall be disregarded:
- (a) £2,000 in respect of his spouse;
- (b) £2,000 in respect of the only or eldest child who is dependent on him or his spouse; and
- (c) £1,000 in respect of each other such child.
- (9) Where the Secretary of State is satisfied that an eligible part-time student's financial resources in the current financial year are unlikely to, or do not, exceed £13,000 he may assess that student's eligibility for a loan under this regulation by reference to those resources in the current financial year.
- (10) For the purposes of this regulation—

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(8) 1992 c. 4.

(9) Section 124, which provides for income support, is amended by the Jobseekers Act 1995 (c. 18), section 41 and Schedules 2 and 3 and by the Welfare Reform and Pensions Act 1999 (c. 30), section 70 and Schedule 8, Part IV, paragraph 28.

(10) Section 128, which provides for working families' tax credit, is amended by the Tax Credits Act 1999 (c. 10), section 1(2) and Schedule 1, paragraphs 1(a), (b) and 2(g) and by the Jobseekers Act 1995 section 41(4) and Schedule 2, paragraph 33.

(11) Section 129, which provides for disabled person's tax credit, is amended by the Tax Credits Act 1999 section 1(2) and Schedule 1, paragraphs 1(a) and (b) and 2(h) and by section 14(1) to (5), the Social Security (Incapacity for Work) Act 1994 (c. 18), sections 10(2) and (3) and 11(1), and Schedule 1, paragraph 32, the Welfare Reform and Pensions Act 1999, section 88 and Schedule 13, Part IV, the Jobseekers Act 1995, section 41(4) and Schedule 2, paragraph 34 and by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraph 2.

(12) Section 130, which provides for housing benefit, is amended by the Local Government Finance Act 1992, section 103 and Schedule 9, paragraph 3, the Local Government etc (Scotland) Act 1994 (c. 39), section 180(1) and Schedule 13, paragraph 174(4) and by the Housing Act 1996 (c. 52), section 227 and Schedule 19, Part VI with savings (see S.I. 1997/618, article 2 and Schedule, paragraph 4).

(13) Section 131, which provides for council tax benefit, was substituted by the Local Government Finance Act 1992, section 103, Schedule 9, paragraph 4.

“child” in relation to an eligible part-time student includes a step-child and any child for whom the student has parental responsibility and, in the case of an eligible part-time student aged 25 or over on the first day of the academic year in respect of which his eligibility for a loan is being assessed, any child of his partner;

“dependent” means wholly or mainly financially dependent;

“financial year” means the period of 12 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;

“income” means gross income from all sources;

“partner” means a woman ordinarily living with a man part-time student as his wife or a man ordinarily living with a woman part-time student as her husband;

“preceding financial year” means the most recent financial year ending before the first day of the academic year in respect of which a person’s eligibility for a loan is being assessed and “current financial year” means the financial year which includes the first day of that academic year;

“spouse” includes, in the case of an eligible part-time student aged 25 or over on the first day of the academic year in respect of which his eligibility for a loan is being assessed, a partner. It does not include a spouse of an eligible part-time student where they have ceased ordinarily to live together, in the case of a married part-time student whether or not an order for their separation has been made by any court, or where the spouse is ordinarily living outside the United Kingdom and is not maintained by him.

### **Amount of loan**

**31.** The amount of a loan for a designated part-time course in respect of each academic year shall be £500.

### **Applications for support**

**32.—(1)** A person shall apply for support in respect of an academic year of a part-time course (other than a course for the initial training of teachers) by completing and submitting to the Secretary of State an application in such form as he may require; and regulation 6 shall not apply to him in connection with his undertaking that course.

(2) The completed application form shall include among other things the following particulars:

- (a) his United Kingdom national insurance number, unless he does not have one;
- (b) his most recent student loan account number, if any; and
- (c) the names, addresses and telephone numbers of two persons who know the student.

(3) The applicant shall sign a declaration on the application form that—

- (a) the particulars given in the application form are correct to the best of his knowledge and belief;
- (b) he will notify the Secretary of State (or if a local education authority or any other person is exercising functions in relation to his application by virtue of a determination under section 23(1)(a) or 23(4) of the Act he will notify that authority or person) of any change in them;
- (c) in the case of an application for a loan, he will repay the amount lent to him, together with interest and applicable charges and penalties, in accordance with the Act and regulations made thereunder from time to time; and

- (d) in the case of an application for a grant pursuant to regulation 33, he will if required to do so repay to the Secretary of State any amount paid to him which for whatever reason exceeds the amount of grant to which he is entitled under that regulation.
- (4) The application form must reach the Secretary of State not later than 6 months after the first day of the academic year of the course in which it is submitted, but where—
- (a) the course becomes a designated part-time course after the first day of that academic year, the application must reach the Secretary of State not later than 6 months after the date on which the course was designated;
  - (b) the student, or his spouse or parent, is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1 after the first day of that academic year, the application must reach the Secretary of State not later than 6 months after the date of recognition or the date leave was granted respectively;
  - (c) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, the application must reach the Secretary of State not later than such date as he specifies.
- (5) An applicant shall demonstrate his eligibility for support by providing such evidence as the Secretary of State may require; and the Secretary of State may take such steps and make such inquiries as he considers necessary to determine whether the applicant is eligible for support.
- (6) If the Secretary of State considers that the applicant is eligible for the support for which he has applied under this Part he shall—
- (a) where the application is the first to be made in connection with the applicant's undertaking the part-time course, notify him of the facts that the applicant is an "eligible part-time student" and is eligible for the support for which he has applied; and
  - (b) in respect of any subsequent application notify him that he is eligible for the support for which he has applied.

### **Grants for disabled part-time students' living costs**

**33.**—(1) Subject to paragraphs (2) and (3), regulation 13 shall apply in relation to an eligible part-time student in respect of his undertaking a designated part-time course as it applies in relation to an eligible student in respect of his undertaking a designated course with the substitution—

- (a) for the amount specified in regulation 13(2)(a) of £**8,070**; and
- (b) for the amount specified in regulation 13(2)(d) of £**1,065**.

(2) An eligible part-time student shall be eligible for grant under this regulation if, in respect of the second and any subsequent year of his part-time course, he is ordinarily resident in England and Wales on the first day of the academic year.

(3) Subject to paragraph (4), an eligible part-time student shall not be eligible for grant under this regulation if he is a prisoner serving a custodial sentence.

(4) Paragraph (3) shall 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.

### **Transfers of eligibility**

**34.**—(1) An eligible part-time student may request the Secretary of State to transfer his eligibility in any case where—

- (a) on the recommendation of the academic authority the student starts to undertake another part-time course at the institution;

- (b) with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the student starts to undertake a part-time course at another institution; or
- (c) after commencing a part-time course for a first degree (other than an honours degree) the student is, before the completion of that course admitted to a part-time course for an honours degree in the same subject or subjects at the institution.

(2) Subject to paragraph (3) the Secretary of State, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated part-time course, shall transfer the eligible part-time student's eligibility, and thenceforth the student shall for all purposes be an eligible part-time student in connection with his undertaking the second course, whether or not he may have been so eligible if he had applied under regulation 32.

(3) The Secretary of State may, after consulting the academic authority concerned, refuse to transfer eligibility where paragraph (1)(a) or (b) apply if he is satisfied that when the student applied for support he did not intend to complete the course to which his application related.

(4) An eligible part-time student's eligibility as such may not be transferred after it has expired or been terminated under regulation 36.

### **Conversion of eligibility**

**35.—**(1) An eligible student under Part II may request the Secretary of State to convert his eligibility to that of an eligible part-time student in any case where—

- (a) with the consent of the academic authority the eligible student ceases to attend his course and starts to undertake a designated part-time course at the institution; or
- (b) with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the eligible student ceases to attend his course and starts to undertake a designated part-time course at another institution.

(2) Subject to paragraphs (3) and (4) the Secretary of State, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated part-time course, shall convert the eligible student's eligibility, and thenceforth the student shall for all purposes cease to be an eligible student and shall be an eligible part-time student in connection with his undertaking the second course, whether or not he may have been so eligible if he had applied under regulation 32.

(3) The Secretary of State shall not under paragraph (2) convert the eligibility of a student who is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule.

(4) The Secretary of State may, after consulting the academic authority concerned, refuse to convert eligibility where paragraph (1)(a) or (b) applies if he is satisfied that when the student applied for support he did not intend to complete the course to which his application related.

(5) An eligible student's eligibility as such may not be converted after it has expired or been terminated under regulation 8.

(6) Where under this regulation an eligible student under Part II becomes an eligible part-time student in the course of an academic year—

- (a) where the Secretary of State has determined to pay an amount of grant to the student under regulation 13 in periodic instalments no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible part-time student;
- (b) the maximum amount of grant to which the student would, apart from this regulation, be entitled pursuant to regulation 33 in connection with his undertaking a designated part-time course in respect of that academic year shall be 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 grant for any purpose has been paid to the student under regulation 13 in a single instalment the maximum amount of grant payable to him pursuant to regulation 33 for that purpose shall be reduced (or where sub-paragraph (b) applies further reduced) by the amount of grant paid to him for that purpose pursuant to regulation 13, and where the resulting amount is nil or a negative amount that amount shall be 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 under regulation 21, or had not applied for the maximum amount or increased maximum for which he was entitled under regulation 21 without prejudice to regulation 30 he may apply for such a loan or such additional amount of loan in accordance with regulation 21 as if he had continued to be an eligible student under Part II; and in the circumstances mentioned in paragraph (7) the maximum or increased maximum amount of such loan for the academic year shall be reduced in accordance with that paragraph.
- (7) Where the application 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) shall be reduced by two thirds, and where the application is made during the second quarter of that year that amount shall be reduced by one third.
- (8) An eligible part-time student may request the Secretary of State to convert his eligibility to that of an eligible student under Part II in any case where—
- (a) with the consent of the academic authority the eligible part-time student ceases to undertake his course and starts to attend a course designated by or under regulation 5 at the institution; or
  - (b) with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the eligible part-time student ceases to undertake his course and starts to attend a course designated by or under regulation 5 at another institution.
- (9) Subject to paragraph (10) the Secretary of State, on being satisfied of the matters referred to in paragraph (8) and that the second course is a designated course, shall convert the eligible part-time student's eligibility, and thenceforth the student shall for all purposes cease to be an eligible part-time student and shall be an eligible student in connection with his attendance at the second course, whether or not he may have been so eligible if he had applied under regulation 6.
- (10) The Secretary of State may, after consulting the academic authority concerned, refuse to convert eligibility where paragraph (8)(a) or (b) applies if he is satisfied that when the student applied for support he did not intend to complete the course to which his application related.
- (11) An eligible part-time student's eligibility as such may not be converted after it has expired or been terminated under regulation 36.
- (12) Where under this regulation an eligible part-time student becomes an eligible student under Part II in the course of an academic year—
- (a) where the Secretary of State has determined to pay an amount of grant to the student pursuant to regulation 33 in periodic instalments no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible student;
  - (b) any loan to which the student is entitled under this Part in respect of that year shall be ignored in determining the amount of support to which he may be entitled in respect of that year under Parts III to V;
  - (c) the maximum amount of any support under Part IV or V to which the student would, apart from this regulation, be entitled in connection with his attendance at a designated course in respect of that academic year shall be reduced by one third, where the student became an eligible 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; and

- (d) where an amount of grant for any purpose has been paid to the student pursuant to regulation 33 in a single instalment the maximum amount of grant payable to him under regulation 13 for that purpose shall be reduced (or where sub-paragraph (c) applies further reduced) by the amount of grant paid to him for that purpose pursuant to regulation 33, and where the resulting amount is nil or a negative amount that amount shall be nil.

### **Termination of eligibility**

**36.**—(1) Subject to the following paragraphs an eligible part-time student shall cease to be eligible for support at the end of the academic year in which he completes his course.

(2) Where an eligible part-time student has withdrawn from a course in circumstances where the Secretary of State has not transferred or converted, or will not transfer or convert, his eligibility under regulation 34 or 35, or has abandoned, ceased to undertake or been expelled from his course, the Secretary of State shall determine that he is no longer eligible to receive support under this Part and on such determination he shall cease to be an eligible part-time student.

(3) Where an eligible part-time student has shown himself by his conduct to be unfitted to receive support under this Part the Secretary of State may determine that he is no longer eligible to receive such support and on such determination he shall cease to be an eligible part-time student.

### **Payment of support**

**37.**—(1) The Secretary of State shall pay a loan under this Part in a single instalment at such time as he considers appropriate.

(2) The Secretary of State shall pay grant pursuant to regulation 33 in such instalments (if any) and at such times as he considers appropriate.

(3) Payments shall be made in such manner as the Secretary of State considers appropriate, and he may make it a condition of entitlement to payment that the eligible part-time student shall provide him with particulars of a bank or building society account in the United Kingdom into which payment may be made by electronic transfer.

### **Overpayments**

**38.**—(1) Any overpayment of a loan under this Part in respect of any academic year may be recovered if in the opinion of the Secretary of State—

- (a) the overpayment is a result of a failure of the student to provide promptly information which might affect his eligibility for a loan under this Part, or
- (b) any information which he has provided is inaccurate in a material particular but otherwise it shall be treated as a loan properly made which shall be repayable in accordance with the Act and regulations made under it.

(2) Where an overpayment of loan is treated as properly made under paragraph (1) the Secretary of State may subtract the overpayment from the amount of loan under this Part for which the student is eligible in respect of any other academic year.

(3) Where an overpayment of loan is recoverable in accordance with paragraph (1) it shall be recovered in such of the following ways as the Secretary of State considers appropriate in all the circumstances:

- (a) by subtracting the overpayment from the amount of loan under this Part for which the student is eligible in respect of any other academic year;
- (b) by taking such other action for the recovery of a payment made without statutory authority as is available to him.



(4) Any overpayment of grant paid pursuant to regulation 33 in respect of an academic year shall be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances:

- (a) by subtracting the overpayment from any grant for which the student is eligible pursuant to regulation 33 in respect of any other academic year;
- (b) by subtracting the overpayment from any grant other than a grant for dependants for which the student is eligible under Part IV;
- (c) by taking such other action for the recovery of a payment made without statutory authority as is available to him.