
STATUTORY INSTRUMENTS

2004 No. 161

EDUCATION, ENGLAND AND WALES

**The Education (Student Support) (No. 2)
Regulations 2002 (Amendment) Regulations 2004**

<i>Made</i>	- - - -	<i>28th January 2004</i>
<i>Laid before Parliament</i>		<i>2nd February 2004</i>
<i>Coming into force</i>	- -	<i>1st September 2004</i>

The Secretary of State for Education and Skills, in exercise of the powers conferred upon him by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(1) hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004 and shall come into force on 1st September 2004.

2. In these Regulations, “the 2002 Regulations” means the Education (Student Support) (No. 2) Regulations 2002(2).

Amendment of the 2002 Regulations

3. The 2002 Regulations shall be amended in accordance with these Regulations.

4.—(1) Regulation 2(1) shall be amended in accordance with this regulation.

(2) “33” shall be substituted for “34” in the definition of “eligible student”.

(3) “31, 32 or 33” shall be substituted for “31, 33 or 34” in the definition of “eligible part-time student”.

5. Paragraph (6) of regulation 3 shall be omitted.

6. In paragraph (2) of regulation 6, “nine” shall be substituted for “four” wherever it appears.

7.—(1) Regulation 10 shall be amended in accordance with this regulation.

(2) The following shall be substituted for sub-paragraph (d) of paragraph (4):

(1) 1998 c. 30. Section 22 was amended by section 146 of the Learning and Skills Act 2000 (c. 21).
(2) S.I.2002/3200, as amended by S.I. 2003/1065.

“(d) the Secretary of State has determined, having regard to all the circumstances of the particular case, that, where a student has attended one or more previous courses, he did not complete for compelling personal reasons that previous course (“the latest course”) which he began to attend subsequent to attending any other previous course.”

(3) The following shall be inserted after paragraph (6):

“(6A) Paragraph (4)(d) shall only apply where the latest course is a course in relation to which the eligible student was determined to be eligible for support under Part III of these Regulations.”

(4) The words “the first day on which the student was required to start attending” shall be substituted for the words “the first day on which students were ordinarily required to start attending” in sub-paragraph (a) of paragraph (9).

8.—(1) Regulation 14(1) shall be amended in accordance with this regulation.

(2) The following shall be substituted for sub-paragraph (b):—

“(b) who falls within paragraph 2(1)(f) of Schedule 3; and.”

(3) The following shall be substituted for sub-paragraph (c):—

“(c) who, in the opinion of the Secretary of State, is subject to greater financial hardship by virtue of falling within paragraph (2)(1)(f) of Schedule 3 than he would otherwise have been.”

9.—(1) Regulation 15 shall be amended in accordance with this regulation.

(2) The following shall be substituted for paragraph (4):—

“An eligible student shall be eligible under paragraphs (1) to (3)—

(a) for the maximum amount of grant payable only if he maintains a dependent who ordinarily resides in the United Kingdom for six months or more of the academic year in respect of which the eligible student applies for assistance under paragraph (1); and

(b) for no grant in any other case.”

(3) In paragraph (11), the words “paragraph 2(1)(a)” shall be substituted for the words “paragraph 3(1)(a) of Part II” wherever they appear.

10. The following shall be inserted after regulation 17 in Part IV—

“Higher Education Grant

17A.—(1) Subject to the following paragraphs, an eligible student shall be eligible for a grant up to the maximum amount of £1,000 payable in accordance with paragraph (5) for the purpose of defraying the cost of books, equipment, travel or childcare incurred for the purpose of attending a course of higher education.

(2) An eligible student shall not be eligible for grant under paragraph (1) unless he is on a course which begins on or after 1st September 2004, and for the purpose of this paragraph “course” shall not include an end-on course in relation to a course which begins before 1st September 2004.

(3) Paragraphs (2) to (6) of regulation 10 shall apply in relation to this regulation as they apply in relation to grants under Part III.

(4) For the purposes of paragraph (5), an eligible student’s household income shall be calculated pursuant to Schedule 3.

(5) An eligible student shall receive grant as follows:

- (a) in any case where the household income is £15,200 or less, he shall receive the maximum amount of the grant available under paragraph (1);
- (b) in any case where the household income exceeds £15,200 and does not exceed £21,185, for every complete £6.30 by which the household income exceeds £15,200 he shall receive £1 less than the maximum amount of grant available; and
- (c) in any case where the household income exceeds £21,185, no grant shall be payable under this regulation.”

11.—(1) The words “wholly or partly” shall be inserted after the words “at a site” in the following provisions:

- (i) regulation 19(1)(b)(i)(b);
- (ii) regulation 19(2)(b)(i)(b);
- (iii) regulation 19(10)(b)(i)(b);
- (iv) regulation 23(5)(b)(i)(b); and
- (v) regulation 23(6)(b)(i)(b).

(2) The words “wholly or partly” shall be inserted after the words “at a site or sites” in the following provisions:

- (i) regulation 19(1)(b)(i)(c);
- (ii) regulation 19(2)(b)(i)(c);
- (iii) regulation 19(10)(b)(i)(c);
- (iv) regulation 23(5)(b)(i)(c); and
- (v) regulation 23(6)(b)(i)(c).

12.—(1) Regulation 19 shall be amended in accordance with this regulation.

(2) The following shall be substituted for paragraph (3):

“(3) Subject to paragraph (3A), where an eligible student resides at his parents' home and the Secretary of State is satisfied that in all the circumstances his parents by reason of age, incapacity, or otherwise cannot reasonably be expected to support him and that it would be appropriate for the amounts referred to in paragraph (1)(b) or (2)(b) to apply, the student shall be treated as if he were not residing at his parents' home.

(3A) Paragraph (3) shall not apply to an eligible student on a course which begins on or after 1st September 2004.”

(3) Paragraph (4) shall be omitted.

(4) The following shall be substituted for paragraph (6) and (6A):

“(6) Subject to paragraph (6A), the maximum loan for living costs shall, in respect of each quarter, be calculated in accordance with whichever of paragraphs (1)(a), (1)(b)(i), (ii), (iii) or (iv), (2)(a) or (2)(b)(i), (ii), (iii) or (iv) applies in relation to one half or more of that quarter or, where any two such paragraphs apply for one half of any quarter each, in accordance with that paragraph which would result in a higher rate of support being payable.

(6A) Paragraph (6) shall apply in relation to paragraph (1)(b)(ii) or paragraph (2)(b)(ii) so that the rate of loan specified in those sub-paragraphs is payable only in respect of a quarter where the student is attending an overseas institution for at least one half of that quarter.”

(5) The following shall be substituted for paragraph (7):

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“(7) The maximum amount of any loan for living costs shall, in respect of an academic year, be the sum of the amounts calculated in respect of each quarter of that year in accordance with paragraph (6).”

(6) The following shall be substituted for the table in paragraph (12):

<i>Column 1</i>	<i>Column 2</i>
3,240	1,535
5,050	2,480
5,000	2,005
4,095	2,005
2,830	1,125
4,380	1,810
4,350	1,465
3,555	1,465

(7) The following shall be substituted for the table in paragraph (13):

<i>Column 1</i>	<i>Column 2</i>
3,240	1,535
5,050	2,480
5,000	2,460
4,095	2,005
2,830	1,125
4,380	1,810
4,350	1,795
3,555	1,465

13. Regulation 21 shall be omitted.

14. The following shall be substituted for paragraph (1) of regulation 22:

“(1) An eligible student’s contribution in respect of an academic year shall, if any, be the amount calculated under paragraph 8 of Schedule 3.”

15.—(1) Regulation 23 shall be amended in accordance with this regulation.

(2) In paragraph (1)(c), the words “3(6) or” shall be deleted.

(3) In paragraph (7), the words “different rates apply” shall be substituted for the words “the Secretary of State determines that different rates shall apply”.

(4) In paragraph (8), the words “which is” shall be substituted for the words “which the Secretary of State has determined shall be”.

16. The following shall be substituted for paragraph (2) of regulation 24:

“(2) Where assessment of the student’s contribution or of other matters has delayed the final calculation of the amount of grant for which the student is eligible, the Secretary of State shall make a provisional assessment of the contribution.”

17.—(1) Regulation 25 shall be amended in accordance with this regulation.

(2) The following shall be substituted for paragraph (1):

“(1) Subject to the following paragraphs, the Secretary of State shall pay assistance under Part IV or Part V in such instalments (if any) and at such times as he considers appropriate, and in the exercise of his functions under this paragraph he shall, where a final assessment cannot be made on the basis of the information provided by the student under regulation 6, make a provisional assessment of the assistance payable.”

(3) The words “other than a loan under regulation 21” shall be omitted—

- (a) in paragraph (2); and
- (b) in paragraph (10).

18. For Part VIII of the 2002 Regulations there shall be substituted the Part VIII set out in Schedule 1 to these Regulations.

19.—(1) Regulation 38(1) shall be amended in accordance with this regulation.

- (2) The words “September 2004” shall be substituted for the words “September 2003”.
- (3) The words “March 2003” shall be substituted for the words “March 2002”.
- (4) The words “March 2004” shall be substituted for the words “March 2003”.

20. For Schedule 3 to the 2002 Regulations there shall be substituted the Schedule 3 set out in Schedule 2 to these Regulations.

21. The figures in the third column of the table in Schedule 3 shall be substituted for the figures in the second column where they appear in the provisions of the 2002 Regulations which are set out opposite to them in the first column.

28th January 2004

Alan Johnson
Minister of State,
Department for Education and Skills

SCHEDULE 1

Regulation 18

“PART VIII

Assistance for Part-Time Courses

Eligible part-time students

27.—(1) Subject to and in accordance with this Part a person shall be eligible for assistance under regulation 29 or 30 in connection with his undertaking a designated part-time course if he is an eligible part-time student in accordance with the following paragraphs of this regulation.

(2) Subject to and in accordance with the following paragraphs, an eligible part-time student shall be a person mentioned in Schedule 1, provided that a person shall not be eligible for assistance under regulation 29(1)(b) or regulation 30 if he is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule.

(3) Subject to and in accordance with the following paragraphs, an eligible part-time student shall be eligible for assistance if, in respect of the second and any subsequent year of his part-time course, he is resident in England and Wales on the first day of the academic year.

(4) An eligible part-time student shall not be eligible for assistance under regulation 29 if—

- (a) he holds a first degree from an educational institution in the United Kingdom; or
- (b) there have been paid to him 8 loans in connection with his undertaking one or more designated part-time courses.

(5) For the purposes of paragraph (4)(a), a degree shall not be treated as a first degree where—

- (a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for his first degree course;
- (b) the course was undertaken at an educational institution in the United Kingdom; and
- (c) the eligible part-time student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

(6) A person shall not be eligible under this regulation if—

- (a) 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 or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 whether or not the amount of such bursary or award is calculated by reference to his income;
 - (ii) any allowance under the Nursery and Midwifery Student Allowances (Scotland) Regulations 1992; or
 - (iii) any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 where that part-time course leads to a qualification in a healthcare profession, other than as a medical doctor or dentist, whether or not the amount of such allowance is calculated by reference to his income;
- (b) he is in breach of any obligation to repay any loan;
- (c) he has not ratified any agreement for a loan made with him when he was under the age of 18;

(d) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive assistance; or

(e) subject to paragraph (7), he is a prisoner serving a custodial sentence.

(7) Paragraph (6)(e) 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.

(8) For the purposes of paragraph (6)(b) and (c), “loan” means a loan made under the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990, the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998 and regulations made thereunder, or the Act and regulations made thereunder.

(9) Paragraph (6)(c) 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.

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

(11) An eligible part-time student shall be eligible for assistance only in respect of:—

(a) an academic year during which his course becomes a designated part-time course, or during which 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; and

(b) any academic year subsequent to an academic year within sub-paragraph (a).

(12) Where a person who meets the requirements of this regulation is notified of that fact by the Secretary of State under regulation 31(5), he shall thereafter be an eligible part-time student for the purposes of these Regulations.

Designated part-time courses

28.—(1) Subject to paragraph (3), a part-time course shall be designated for the purposes of section 22(1) of the Act and regulation 27 if—

(a) it is mentioned in Schedule 2, otherwise than in paragraph 4 of that Schedule;

(b) it equals or 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 27(1) the Secretary of State may designate part-time courses of higher education which are not designated by paragraph (1).

Assistance for part-time courses

29.—(1) For the purposes of this regulation, assistance shall mean:

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- (a) a grant in respect of fees not exceeding the lesser of the following amounts—
 - (i) “the fee grant”, being one half of the amount referred to in paragraph (a) of regulation 11, and
 - (ii) “the actual fees”, being the amount of fees charged in respect of the designated course; and
 - (b) a grant not exceeding £250 for books, travel and other expenditure in connection with the designated course.
- (2) An eligible part-time student shall be eligible for assistance in respect of an academic year in accordance with this regulation as follows:
- (a) an eligible part-time student shall receive the maximum amount of assistance available under this regulation if at the date of his application for assistance, he or his spouse is entitled
 - (i) under Part VII of the Social Security Contributions and Benefits Act 1992⁽³⁾ to income support, housing benefit or council tax benefit; or
 - (ii) under Part 1 of the Jobseekers Act 1995⁽⁴⁾ to income-based jobseekers allowance or under section 2 of the Employment and Training Act 1973⁽⁵⁾ to new deal allowance;
 - (b) subject to sub-paragraph (a), an eligible part time student shall be assessed for assistance under paragraph (6).
- (3) Subject to paragraph (4), for the purposes of paragraph (5), 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 assistance is his spouse.
- (4) Where the Secretary of State is satisfied that an eligible part-time student’s financial resources for a financial year are greater than his financial resources for the current financial year and that the difference between the two amounts is £1,000 or more, he may assess that student’s financial resources under this regulation by reference to those resources in the current financial year.
- (5) For the purposes of paragraph (6), an eligible part-time student’s relevant income shall be calculated by disregarding from his financial resources—
- (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 on his spouse; and
 - (c) £1,000 in respect of each other such child.
- (6) Subject to paragraphs (7) and (8), an eligible part-time student shall receive assistance as follows:
- (a) in any case where the relevant income is less than £14,600, the maximum amount of the assistance available under paragraph (1);

(3) 1992 c. 4. Section 131 was amended by section 103 of and Schedule 9 to the Local Government Finance Act 1992. Section 136A was inserted by section 14 of and Schedule 2 to the State Pension Credit Act 2002.

(4) 1995 c. 18. Sections 3A, 3B, 4A, 15A, 20A and 20B were inserted by section 59 of and Schedule 7 to the Welfare Reform and Pensions Act 1999. Subsection (1)(cc) of section (3A) was inserted by section 14 of and Part 3 of Schedule 2 to the State Pension Credit Act 2002.

(5) 1973 c. 50. Section 2 was substituted by section 25(1) of the Employment Act 1988. Subsections (3A) and (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 in relation to Scotland only. Subsections (4) and (6) were repealed by section 29(4) of and Part 1 of Schedule 7 to the Employment Act 1989.

- (b) in any case where the relevant income is £14,600, the maximum amount of assistance available under paragraph (1)(b) together with £50 less than the maximum amount of assistance available under paragraph (1)(a); and
 - (c) in any case where the relevant income exceeds £14,600, the assistance available under paragraph (1) shall be reduced by £50 and also by £1 for every complete £9.50 by which the relevant income exceeds £14,600.
- (7) Where an eligible part-time student is eligible to receive assistance under paragraph (6) (c)—
- (a) if the full amount of any assistance for which he would otherwise be eligible is calculated to be less than £50, he shall receive no assistance; and
 - (b) any deduction from the maximum amount of the assistance available shall apply firstly to the assistance provided under paragraph (1)(a) and when no assistance is provided under that paragraph to paragraph (1)(b).
- (8) In this paragraph, where the fee grant is greater than the actual fees, the difference shall be referred to as “the difference”.
- (b) Subject to sub-paragraph (c), any deduction under paragraph (6)(b) or (c) from the maximum amount of the assistance provided under paragraph (1)(a) shall itself be reduced by the difference.
 - (c) Where the resulting amount of the deduction would be negative under sub-paragraph (b), the student shall receive the maximum amount of assistance available under paragraph (1)(a).
- (9) In any academic year, an eligible part-time student shall not receive under this regulation assistance in excess of the maximum amount available to him under paragraph (1) in relation to a single designated part-time course, and where under regulation 32 a student receives assistance in relation to more than one such course, he shall not receive more than he would have received in relation to the course in respect of which he would have been eligible for the greatest amount of assistance.
- (10) For the purposes of this regulation:
- (a) “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 assistance is being assessed, any child of his partner;
 - (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person’s eligibility for assistance is being assessed;
 - (c) “dependent” means wholly or mainly financially dependent;
 - (d) “financial year” means the period of twelve months for which the income of the eligible part-time student is computed for the purposes of the income tax legislation which applies to it;
 - (e) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims made under section 3 of the Tax Credits Act 2002;
 - (f) “partner” means a woman ordinarily living with a male part-time student as his wife or a man ordinarily living with a female part-time student as her husband;
 - (g) “spouse” includes
 - (i) the wife of a male eligible part-time student and the husband of a female eligible part-time student; and

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- (ii) 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 assistance is being assessed, a partner,

but it does not include a spouse of an eligible part-time student where they have ceased ordinarily to live together, 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.

Grants for disabled part-time students' living costs

30.—(1) 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 £8,670;
- (b) for the amount specified in regulation 13(2)(d) of £1,140.

Applications for assistance

31.—(1) A person shall apply for assistance in respect of an academic year of a part-time course by completing and submitting to the Secretary of State an application in such form and accompanied by such documentation as he may require, and regulation 6 shall not apply to him in connection with his undertaking that course.

(2) Subject to paragraph (3), the application must reach the Secretary of State not later than six months after the first day of the academic year of the course in relation to 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 six 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 six months after the date of recognition or the date the leave was granted respectively; or
- (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.

(3) Where an eligible part-time student is applying for assistance under regulation 30 the application form must reach the Secretary of State as soon as it is reasonably practical.

(4) An applicant shall demonstrate his eligibility for assistance 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 assistance.

(5) If the Secretary of State considers that the applicant is eligible for the assistance 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 fact that the applicant is an eligible part-time student and is eligible for the assistance for which he has applied; and

- (b) in respect of any subsequent application, notify him that he is eligible for the assistance for which he has applied.

Transfer of eligibility

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

- (a) the student starts to undertake another part-time course at the institution;
- (b) 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) 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 thereafter the student shall (subject to regulation 29(9)) 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 31.

(3) An eligible part-time student's eligibility as such may not be transferred after it has expired or been terminated under regulation 34.

Conversion of eligibility

33.—(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) the eligible student ceases to attend his course and starts to undertake a designated part-time course at the institution; or
- (b) the eligible student ceases to attend his course and starts to undertake a designated part-time course at another institution.

(2) On being satisfied of the matters referred to in paragraph (1), the Secretary of State shall convert the eligible student's eligibility, and thereafter the student shall for all purposes cease to be an eligible student and shall (subject to regulation 29(9)) 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 31.

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

(4) 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 30 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

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him pursuant to regulation 30 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 20, or had not applied for the maximum amount or increased maximum for which he was entitled under regulation 20, he may apply for such a loan or such additional amount of loan in accordance with regulation 20 as if he had continued to be an eligible student under Part II; and in the circumstances mentioned in paragraph (5) the maximum or increased maximum amount of such loan for the academic year shall be reduced in accordance with that paragraph.

(5) Where the application under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be) 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.

(6) 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) 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) 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.

(7) The Secretary of State, on being satisfied of the matters referred to in paragraph (6), shall convert the eligible part-time student's eligibility, and thereafter 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.

(8) An eligible part-time student's eligibility as such may not be converted after it has expired or been terminated under regulation 34.

(9) 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 30 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 assistance to which the student is entitled under this Part in respect of that year shall be ignored in determining the amount of assistance to which he may be entitled in respect of that year under Parts III to V;
- (c) the maximum amount of any assistance 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 that academic year, and by two thirds where he became such a student in a later quarter of that year; and
- (d) where an amount of grant for any purpose has been paid to the student pursuant to regulation 30 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 30 and where the resulting amount is nil or a negative amount that amount shall be nil.

Termination of eligibility

34.—(1) Subject to the following paragraphs an eligible part-time student shall cease to be eligible for assistance 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 32 or 33, or has ceased to undertake or been expelled from his course, the Secretary of State shall determine that he is no longer eligible to receive assistance 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 unfit to receive assistance under this Part the Secretary of State may determine that he is no longer eligible to receive such assistance and on such determination he shall cease to be an eligible part-time student.

Payment of assistance to eligible part-time students

35.—(1) The Secretary of State shall pay grant pursuant to regulation 30 and in relation to paragraph (1)(b) of regulation 29 in such instalments (if any) and at such times as he considers appropriate.

(2) 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 payments may be made by electronic transfer.

Payment of grant for fees

36.—(1) Subject to paragraphs (2) and (3), the Secretary of State shall pay any grant under regulation 29(1)(a) to the appropriate academic authority when a valid request for payment has been received.

(2) The Secretary of State may make payments under paragraph (1) at such times and in such instalments as he sees fit.

(3) The Secretary of State may make provisional payments under paragraph (1) in such cases as he deems appropriate.

Overpayments

37.—(1) Any overpayment of a grant 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 grant under this Part; or
- (b) any information which he has provided is inaccurate in a material particular.

(2) In a case falling within paragraph (1) the student shall, if so required by the Secretary of State, repay any amount paid to the student which for whatever reason exceeds the amount of grant to which he is entitled under the relevant regulation.

(3) In a case falling within paragraph (1), any overpayment of grant paid pursuant to regulation 29 in respect of an academic year may be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances—

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- (a) by subtracting the overpayment from the amount of grant paid under this Part for which the student is eligible in respect of any other academic year;
 - (b) by taking such other action for the recovering of a payment made without statutory authority as is available to him.
- (4) In a case falling within paragraph (1), any overpayment of grant paid pursuant to regulation 30 in respect of an academic year may 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 the grant for which the student is eligible pursuant to regulation 30 in respect of any other academic year;
 - (b) by subtracting the overpayment from any other grant for which the student is eligible either in respect of the academic year in question or any other academic year;
 - (c) where the student commences any course subsequent to the course in respect of which the overpayment was made, by subtracting the overpayment from any payment of grant for living costs for which he is eligible in respect of any academic year in connection with that subsequent course; or
 - (d) by taking such other action for the recovery of a payment made without statutory authority as is available to the Secretary of State.”

SCHEDULE 2

Regulation 20

“SCHEDULE 3

Regulation 22(1)

Financial Assessment

Definitions in Schedule 3

1. In this Schedule:—

- (a) “existing student” means an eligible student who is not a new eligible student;
- (b) “financial year” means in relation to paragraph 4 the period of twelve months in respect of which the income of a person whose residual income is calculated under the provisions of this Schedule is computed for the purposes of the income tax legislation which applies to it;
- (c) “gross taxable income” means, in relation to paragraph 3, in respect of the academic year for which an application has been made under regulation 6 and, in relation to paragraph 4, in respect (subject to sub-paragraphs (4), (5) and (6) of paragraph 4) of the preceding financial year, a person’s taxable income from all sources computed as for the purposes of:—
 - (i) the Income Tax Acts;
 - (ii) the income tax legislation of another Member State which applies to the person’s income; or
 - (iii) (where the legislation of more than one Member State applies in respect of the same period) the legislation under which the Secretary of State considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 4);
- (d) “household income” has the meaning assigned to it by paragraph 7;
- (e) “independent eligible student” has the meaning assigned to it by paragraph 2(1);

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- (f) “Member State” means a Member State of the European Union;
- (g) “new eligible student” means an eligible student starting a course either on or after 1st September 2004, but does not include an eligible student starting an end-on course during that time where he has already completed a course prior to this time;
- (h) “parent” means a natural or adoptive parent and “child”, “mother” and “father” shall be construed accordingly;
- (i) “parent student” means an eligible student who is the parent of an eligible student;
- (j) “partner” in relation to an eligible student shall mean any of the following:
 - (i) the wife of an eligible student;
 - (ii) the husband of an eligible student;
 - (iii) a woman with whom a male student is ordinarily living as her husband, if he falls within paragraph 2(1)(a) and he is on a course which began on or after 1st September 2000 unless
 - (aa) his course is an end-on course in relation to a course which began before 1st September 2000; or
 - (bb) his course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (aa);
 - (iv) a man with whom a female student is ordinarily living as his wife, if she falls within paragraph 2(1)(a) and she is on a course which began on or after 1st September 2000 unless
 - (aa) her course is an end-on course in relation to a course which began before 1st September 2000; or
 - (bb) her course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (aa);
- (k) “partner” in relation to the parent of a new eligible student shall mean any of the following other than another parent of the eligible student:
 - (i) the wife of an eligible student’s father;
 - (ii) the husband of an eligible student’s mother;
 - (iii) a woman with whom an eligible student’s father is ordinarily living as her husband; or
 - (iv) a man with whom an eligible student’s mother is ordinarily living as his wife;
- (l) “preceding financial year” means the financial year ending in the April immediately preceding the relevant year;
- (m) “relevant year” means the academic year in respect of which the household income falls to be assessed; and
- (n) “residual income” means gross taxable income after the application of paragraph 3 (in the case of an eligible student), paragraph 4 (in the case of an eligible student’s parent), paragraph 5 (in the case of an eligible student’s partner) or paragraph 6 (in the case of the partner of an eligible student’s parent).

Application of this Schedule to an eligible student

2.—(1) An independent eligible student shall mean an eligible student in every case where:

- (a) he is aged 25 or over on the first day of the relevant year;

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- (b) he has been married before the beginning of the relevant year, whether or not the marriage is still subsisting;
 - (c) he has no parents living;
 - (d) the Secretary of State is satisfied that his parents cannot be found or that it is not reasonably practical to get in touch with them;
 - (e) he has communicated with neither of his parents for the period of one year before the beginning of the relevant year or in the opinion of the Secretary of State can demonstrate on other grounds that he is irreconcilably estranged from his parents;
 - (f) he has pursuant to an order of a competent court been in the custody or care of, or has been provided with accommodation by, any legal person who is not the student's parent throughout any three month period ending on a date on or after the date on which he attains the age of 16 and before the first day of his course ("the relevant period") (provided that he has not in fact at any time during the relevant period been under the charge or control of his parents);
 - (g) his parents are residing outside the European Community and the Secretary of State is satisfied that either
 - (i) the assessment of the household income by reference to their residual income would place those parents in jeopardy, or
 - (ii) it would not be reasonably practical for those parents as a result of the calculation of any contribution under paragraph 8 to send any relevant funds to the United Kingdom;
 - (h) paragraph 4(10) applies and the parent whom the Secretary of State considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner within paragraph 1(k));
 - (i) he is a member of a religious order who resides in a house of that order; or
 - (j) he has supported himself out of his earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph he shall be treated as supporting himself out of his earnings during any period which—
 - (i) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local ("a relevant authority");
 - (ii) he was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;
 - (iii) he was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;
 - (iv) he held a State Studentship or comparable award;
 - (v) he received any pension, allowance or other benefit paid by any person by reason of a disability to which he is subject, or by reason of confinement, injury or sickness; or
 - (vi) he could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was wholly or mainly financially dependent on him.
- (2) The household income of an eligible student not falling within sub-paragraph (1) shall be calculated under paragraph 7(1)(a) of this Schedule.

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(3) The household income of an eligible student within sub-paragraph (1) who has a partner under paragraph 1(j) shall be calculated under paragraph 7(1)(b) of this Schedule.

(4) The household income of an eligible student within sub-paragraph (1) who does not have a partner under paragraph 1(j) shall be calculated under paragraph 7(1)(c) of this Schedule.

Calculation of eligible student's residual income

3.—(1) For the purpose of determining the residual income of an eligible student, there shall be deducted from his gross taxable income the aggregate of any amounts falling within any of the following sub-paragraphs—

- (a) any remuneration for work done during any academic year of the eligible student's course, provided that such remuneration shall not include any sums paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending that course;
- (b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988⁽⁶⁾, or where the eligible student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
- (c) any payment made by virtue of any agreement, instrument or enactment by the eligible student for the maintenance of his child or former partner.

(2) Where an eligible student is a person referred to in paragraph 7 of Schedule 1 and not in any other paragraph of that Schedule and his income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 1 of Schedule 1, his income shall not be disregarded in accordance with sub-paragraph (1) but shall instead be disregarded to the extent necessary to ensure that he is treated no less favourably than a person who is referred to in any paragraph of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

(3) Where the eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph shall be:—

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives, and
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics⁽⁷⁾.

Calculation of parent's residual income

4.—(1) For the purposes of determining the residual income of an eligible student's parent, there shall not be deducted or exempted from his gross taxable income any deductions or exemptions which (under the Income Tax Acts or under the income tax legislation of another Member State) fall to be made or are permitted—

- (a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;

⁽⁶⁾ 1988 c. 1. Section 273 was amended by section 35 of and paragraph 10 of Schedule 3 to the Finance Act 1988.

⁽⁷⁾ "Financial Statistics", reference 7.1A (ISSN 0015-203X)

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- (b) in respect of any payment made under covenant;
 - (c) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
 - (d) pursuant to any United Kingdom enactment irrespective of whether, if the person's income is determined for the purposes of another Member State, they would not be so permitted.
- (2) For the purposes of determining the residual income of an eligible student's parent, there shall be deducted from his gross taxable income the aggregate of any amounts falling within any of the following sub-paragraphs:—
- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273, 619 or 639 of the Income and Corporation Taxes Act 1988, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;
 - (b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph 7, any sums equivalent to the deduction mentioned in sub-paragraph (a), provided that any sums so deducted shall not exceed the deductions which would be made if the whole of the eligible student's parent's income were in fact taxable income for the purposes of the Income Tax Acts;
 - (c) in the case of a parent student or an eligible student's parent who holds a statutory award, £1,000.
- (3) Where, in pursuance of any instrument or by virtue of any applicable legislation, any income is applied by any person for or towards the maintenance, education or other benefit of the eligible student or of any person dependent on the student's parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross taxable income of the parent.
- (4) Where the Secretary of State is satisfied that the income of the parent in the financial year beginning immediately before the relevant year ("the current financial year") is, as a result of some event beyond his control, likely to be not more than 85 per cent of the sterling value of his income in the preceding financial year he may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the current financial year.
- (5) Where the Secretary of State is satisfied that the income of the parent in any financial year is, as a result of some event beyond his control, likely to be and to continue after that year to be not more than 85 per cent of the sterling value of his income in the previous financial year he may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his residual income for each of the financial years in which that academic year falls.
- (6) Where the eligible student's parent satisfies the Secretary of State that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then any reference in this Schedule to a preceding financial year shall mean the most recent period of twelve months which ends before the start of the relevant year and in respect of which accounts are kept relating to that business or profession.
- (7) Where an eligible student's parent is in receipt of any income which does not form part of his gross taxable income by reason only that—

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- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or where his income is computed as for the purposes of the income tax legislation of another Member State, not so resident, ordinarily resident or domiciled in that Member State;
- (b) the income does not arise in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another Member State, does not arise in that Member State; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

his gross taxable income for the purposes of this Schedule shall be computed as though the income under this sub-paragraph were part of his taxable income.

(8) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another Member State, it shall be computed under the provisions of this Schedule in the currency of that Member State and the income of the eligible student's parent for the purposes of this Schedule shall be the sterling value of that income determined in accordance with the rate for the month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(9) Where:—

- (a) one of the eligible student's parents dies either before or during the relevant year; and
- (b) that parent's income has been or would be taken into account for the purpose of determining the household income,

the household income shall—

- (c) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (d) where the parent dies during the relevant year, be the aggregate of—
 - (i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant year during which both parents were alive; and
 - (ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant year remaining after the death of the other parent.

(10) Where the parents do not ordinarily live together throughout the relevant year, the household income shall be determined by reference to the income of whichever parent the Secretary of State considers the more appropriate under the circumstances.

(11) Where the parents do not ordinarily live together for part only of the relevant year, the household income shall be determined by reference to the aggregate of:—

- (a) the appropriate proportion of the household income determined in accordance with sub-paragraph (10), being the proportion in respect of that part of the relevant year for which the parents do not so live together; and
- (b) the appropriate proportion of the household income determined otherwise in respect to the remainder of the relevant year.

Calculation of eligible student's partner's residual income

5.—(1) Subject to sub-paragraphs (2), (3) and (4) of this paragraph and with the exception of sub-paragraphs (9), (10) and (11) of paragraph 4, an eligible student's partner's income shall be determined in accordance with paragraph 4, references to the parent being construed as references to the eligible student's partner.

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(2) Where an eligible student acquires a partner within the meaning of paragraph 1(j) during any relevant year, the household income shall be determined by reference to the eligible student's partner's income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks before the end of that academic year or before the end of the course (whichever is earlier) during which that person was the eligible student's partner within the meaning of paragraph 1(j).

(3) Where an eligible student ceases to have a partner within the meaning of paragraph 1(j) during any relevant year, the household income shall be determined by reference to the eligible student's partner's income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks after the beginning of that academic year during which that person was still the eligible student's partner within the meaning of paragraph 1(j).

(4) Where an eligible student has more than one partner in any one academic year, the provisions of this paragraph apply in relation to each.

Calculation of parent's partner's residual income

6. The income of a new eligible student's parent's partner shall be determined in accordance with paragraph 5, references to the eligible student's partner being construed as references to the new eligible student's parent's partner, and references to the eligible student being construed as references to the new eligible student's parent.

Calculation of household income

7.—(1) The household income shall be:—

- (a) in the case of an eligible student falling within paragraph 2(2), the residual income of the eligible student aggregated with the residual income of the eligible student's parent or parents and (in the case of a new eligible student) the residual income of the new eligible student's parent's partner (if any);
- (b) in the case of an eligible student falling within paragraph 2(3), the residual income of the eligible student aggregated (subject to sub-paragraph (3)) with the residual income of the eligible student's partner; or
- (c) in the case of an eligible student falling within paragraph 2(4), the residual income of the eligible student.

(2) There shall be deducted from the sum of the household income under sub-paragraph (1) the sum of £1,000

- (a) for each child wholly or mainly financially dependent on the eligible student or the eligible student's partner, or
- (b) for each child other than the eligible student wholly or mainly financially dependent on the eligible student's parent or the eligible student's parent's partner.

(3) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner shall not be aggregated under sub-paragraph (1) (b) in the case of a parent student whose child or whose partner's child holds an award:

- (a) in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both; or
- (b) in respect of which a parental contribution is otherwise applicable with reference to the parent student or his partner.

Calculation of contribution

8.—(1) In relation to an eligible student falling within paragraph 2(2) or (3), the contribution payable shall

- (a) in any case where the household income is £21,475 or more be £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £21,475, and
- (b) in any case where the household income is less than £21,475 be nil.

(2) In relation to an eligible student falling within paragraph 2(4), the contribution shall

- (a) in any case where the household income is £10,000 or more be £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £10,000.
- (b) in any case where the household income is less than £10,000 be nil.

(3) The amount of the contribution payable under sub-paragraphs (1) or (2) shall in no case exceed £7,075.

(4) In a case falling within paragraph (5), the aggregate contributions shall not exceed:—

- (a) £7,075; or
- (b) the contribution which would have been payable if only one eligible student held an award.

(5) Paragraph (4) applies where a contribution is payable in relation to—

- (a) more than one eligible student falling with paragraph 2(2), in respect of the same income under both paragraphs 4 and 6; or
- (b) more than one eligible student falling within paragraph 2(3), in respect of the same household income.

Split contributions

9.—(1) Where a contribution is payable under paragraph 8 other than in relation to sub-paragraph (2) of that paragraph, the contribution shall be payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in sub-paragraph (b) is held by—
 - (i) more than one child of the eligible student's parents;
 - (ii) the eligible student's parent; or
 - (iii) the eligible student's parent's partner,

the contribution payable in respect of the eligible student shall be such proportion of any contribution calculated under paragraph 8 as the Secretary of State, after consultation with any other authority involved, considers just, taking into account the application of paragraph 6 of this Schedule to new eligible students and existing students respectively;

- (b) for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003⁽⁸⁾ or section 63 of the Health Services and Public Health Act 1968 (and no other statutory award) is held by more than one child of the eligible student's parents, the contribution payable in respect of the eligible student shall, subject to this paragraph, be such proportion of any contribution calculated under paragraph 8 as is equal to the proportion payable in respect of any other such statutory award holder;

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- (c) if, as a result of the apportionment under sub-paragraph (b), any part of that contribution would not be applied in respect of any statutory award and there would remain any part of any statutory award in respect of which the contribution had not been applied, the contribution shall instead be applied
 - (i) first in relation to the smallest statutory award (or each such statutory award) to which the contribution may apply, and
 - (ii) then, in increasing order of size, in relation to each remaining statutory award to which the contribution may apply, until the balance of the contribution can be apportioned equally without any part of it remaining or until there remains no part of any statutory award to which the contribution has not been applied.

(2) In any case where

- (a) the eligible student's parent has a partner within paragraph 1(k) of this Schedule;
- (b) a contribution is payable in relation to more than one eligible student who is the child of either the eligible student's parent or the eligible student's parent's partner; and
- (c) the amount payable in relation to each eligible student is not equal to the amount payable in respect of every other eligible student,

the contribution in respect of each eligible student shall be calculated under paragraph (3).

(3) Where paragraph (2) applies, the contribution payable in respect of each household shall be calculated and the apportionment carried out in accordance with sub-paragraph (1) of this paragraph withholding only that part of the contribution apportioned to each eligible student who is not part of the household.

(4) In a case where a contribution is payable in respect of more than one eligible student, and the residual income of any such eligible student is greater than nil, the contribution in relation to each eligible student shall be calculated in accordance with the following sub-paragraphs:

- (a) the contribution in respect of each eligible student shall be calculated without reference to paragraph 3 but otherwise in accordance with this Schedule and shall be apportioned between each eligible student in accordance with this paragraph;
- (b) there shall then be applied in addition in respect of each eligible student a further contribution of £1 for every complete £9.50 by which the sum calculated under sub-paragraph (c) exceeds £21,475;
- (c) the sum referred to in sub-paragraph (b) shall be the aggregate of any amounts calculated under paragraphs 3, 4 and 6 (where appropriate) of this Schedule with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 4 and 6 exceeds £21,475.

(5) Subject to sub-paragraph (6), there shall be added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining:—

- (a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or
- (b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this paragraph.

(6) Where a parent student has a partner within paragraph 1(k) of this Schedule, the sums added to his residual income under sub-paragraph (5) of this paragraph shall be calculated as though the contribution in respect of his children had been assessed with reference to paragraph 6 of this Schedule, whether or not the contribution was actually calculated on that basis.

(7) In this paragraph, “household” means all those eligible students in respect of whom a contribution is calculated with reference to the same income under both paragraphs 4 and 6.”

SCHEDULE 3

Regulation 21

Provision in the 2002 Regulations	Existing figure	New figure
Regulation 11	£	£
11 (1) (a)	1,125	1,150
11 (1) (b) to (g) inclusive	550	560
11 (2) (a) (ii)	1,050	1,075
11 (2) (b)	2,640	2,705
	4,055	4,150
	1,995	2,045
Regulation 13		
13 (2) (a)	11,280	11,550
13 (2) (b)	4,460	4,565
13 (2) (d)	1,490	1,525
13 (3)	8,465	8,670
	1,115	1,140
Regulation 15		
15 (1)	2,280	2,335
15 (1) (b)	3,280	3,360
15 (2) (b) (i)	1,000	1,025
15 (2) (b) (ii)	3,000	3,070
15 (2) (b) (iii)	4,000	4,095
15 (2) (b) (iv)	4,000	4,095
15 (2) (b) (v)	5,000	5,120
15 (5)	1,125	1,150
15 (7) (a)	1,300	1,330
15 (7) (b)	1,300	1,330
	1,250	1,280
Regulation 16		
16 (5) (b) (i)	1,000	1,025
16 (5) (b) (ii)	3,000	3,070

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Provision in the 2002 Regulations	Existing figure	New figure
16 (5) (b) (iii)	4,000	4,095
16 (5) (b) (iv)	4,000	4,095
16 (5) (b) (v)	5,000	5,120
16 (7) (b) (i)	1,000	1,025
16 (7) (b) (ii)	3,000	3,070
16 (7) (b) (iii)	4,000	4,095
16 (7) (b) (iv)	4,000	4,095
16 (7) (b) (v)	5,000	5,120
Regulation 17		
17 (2)	270	275
Regulation 19		
19 (1) (a)	3,165	3,240
19 (1) (b) (i)	4,930	5,050
19 (1) (b) (ii)	4,885	5,000
19 (1) (b) (iii)	4,885	5,000
19 (1) (b) (iv)	4,000	4,095
19 (2) (a)	2,765	2,830
19 (2) (b) (i)	4,275	4,380
19 (2) (b) (ii)	4,250	4,350
19 (2) (b) (iii)	4,250	4,350
19 (2) (b) (iv)	3,470	3,555
19 (10) (a)	48	49
19 (10) (b) (i)	92	94
19 (10) (b) (ii)	99	101
19 (10) (b) (iii)	99	101
19 (10) (b) (iv)	71	73
Regulation 23		
23 (3)	1,125	1,150
23 (5) (a)	2,375	2,430
23 (5) (b) (i)	3,695	3,790
23 (5) (b) (ii)	3,665	3,750
23 (5) (b) (iii)	3,665	3,750
23 (5) (b) (iv)	3,000	3,070
23 (6) (a)	2,070	2,125

Provision in the 2002 Regulations	Existing figure	New figure
23 (6) (b) (i)	3,205	3,285
23 (6) (b) (ii)	3,190	3,265
23 (6) (b) (iii)	3,190	3,265
23 (6) (b) (iv)	2,605	2,665

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Support) (No 2) Regulations 2002 ([SI 2002/3200](#)) (“the 2002 Regulations”). Changes in relation to the rates of fees, grants and loans are specified in Schedule 3 to and in paragraphs (6) and (7) of regulation 12 of these Regulations. Changes of substance to the 2002 Regulations are described below.

Regulation 3 of the 2002 Regulations is amended to revoke obsolete transitional measures in relation to the Education (Student Support) Regulations 1998 ([SI 1998/2003](#)).

Regulation 6 of the 2002 Regulations (applications for financial support) is amended to allow students nine months instead of four from the start of the academic year in which to apply for support.

Regulation 10 of the 2002 Regulations (eligibility for grants for fees) is amended to ensure that paragraph (4), which allows certain exceptions to the bar on eligibility for students who have attended previous courses, only applies in relation to students who have failed to complete previous courses for compelling personal reasons where the previous course in question was the most recent course on which the student enrolled. A further technical amendment to paragraph (9) ensures that consent to the transfer of a course is required to be given within the appropriate timescale where a student repeats a year of study.

Regulation 15 of the 2002 Regulations (grants for dependants) is amended in relation to paragraph (4), which concerns an eligible student who maintains a dependant who is ordinarily resident outside the United Kingdom. The Secretary of State’s discretion in this respect is removed, and the student is eligible for the maximum amount of grant only if he maintains a dependant who is ordinarily resident in the United Kingdom for six months or more of the relevant academic year.

A new regulation 17A is inserted into the 2002 Regulations to make provision for a new grant, to be called the Higher Education Grant, for new students starting courses from 1st September 2004. Where household income is £15,200 or less the student will receive £1,000, and a reduced amount will be available on a tapering basis to those whose income is above that threshold but which does not exceed £21,185. The purpose of the grant is to defray costs incurred in connection with attending a course of higher education.

Regulations 19 (maximum amounts of loans) and 23 (application of contribution) of the 2002 Regulations are amended to make provision, in relation to appropriate rates of loan, for students attending courses at a site or sites wholly or partly within the City of London or Metropolitan Police District, to cover those institutions which are not wholly within the relevant area.

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Regulation 19 is further amended to provide that although under certain circumstances a student who is in fact residing at his parents' home may be treated as though he were not, for the purpose of the applicable rate of loan. This does not apply to students beginning courses on or after 1st September 2004. Another amendment removes the Secretary of State's discretion in relation to cases where different rates of loan apply in relation to parts of the year, and provides instead that the applicable rate for any quarter will be that which applies in relation to the majority of that quarter or, where the student changes circumstances exactly midway through a quarter, whichever of the relevant rates is higher.

Regulations 24 and 25 are amended to substitute an obligation for the Secretary of State's discretion in relation to making provisional payments where there has been a delay in calculating the amount of grant or loan which is payable.

A new Part VIII (assistance for part-time courses) is substituted for the relevant provisions in the 2002 Regulations. The main differences from the 2002 Regulations are as follows:

- (a) the age limit is removed in relation to eligibility for assistance, and eligible part-time students may receive support for a total of eight years instead of six (regulation 27)
- (b) loans will no longer be made available in relation to part time courses. Instead, students who qualify on financial grounds will receive a grant for fees capped at half the fee grant for full-time courses, and a grant for a maximum of £250 in respect of course expenditure. The full amount will be available to students in receipt of certain benefits, or whose income (with certain disregards) is below £14,600, and a reduced grant will be available on a tapering basis to those with higher incomes (regulation 29)
- (c) other amendments are de-regulatory or technical.

A new Schedule 3 (financial assessment) is substituted for the relevant provisions in the 2002 Regulations. The main differences from the 2002 Regulations are as follows:

- (a) the calculation of income is simplified. Instead of assessing all income with a large number of disregards, the assessment is based on gross taxable income, involving very few disregards other than payments towards a pension, earnings during the course and £1,000 for each dependent child (paragraphs 3 and 4)
- (b) in relation to new students starting courses on or after 1st September 2004, the income of the spouse or co-habiting partner of the student's natural parent is taken into account (paragraph 6)
- (c) the student's income is aggregated with that of the parent and other relevant household members to form the household income (paragraph 7)
- (d) the household income threshold is £10,000 for single independent eligible students and £21,475 otherwise, and the contribution increases where the income exceeds that amount, until it reaches the total maximum contribution payable of £7,075 (paragraph 8)
- (e) the provisions relating to split contributions are amended to reflect these changes, particularly those relating to the spouse or co-habiting partner of the student's natural parent. Other provisions in this regard allow for calculation of contribution where a student in a family of more than one eligible student has income of his own; for unused amounts of contribution payable from the household income of an eligible student's parent who is himself an eligible student to be added to the income of that parent for the purpose of calculating his support; and to allow that calculation (where relevant) to be on the basis that the eligible student's child's contribution was assessed with reference to the parent's partner, whether or not this was the case (paragraph 9).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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