

2005 No. 2083

EDUCATION, ENGLAND AND WALES

**The Education (Mandatory Awards) (Amendment) Regulations
2005**

<i>Made</i>	- - - -	<i>26th July 2005</i>
<i>Laid before Parliament</i>		<i>3rd August 2005</i>
<i>Coming into force</i>		<i>1st September 2005</i>

The Secretary of State for Education and Skills, in exercise of the powers conferred upon her by sections 1 and 4(2) of the Education Act 1962(a) and sections 3(1) and (2) of the Education Act 1973(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Education (Mandatory Awards) (Amendment) Regulations 2005 and shall come into force on 1st September 2005.

2. In these Regulations, “the Principal Regulations” means the Education (Mandatory Awards) Regulations 2003(c).

Revocation

3. The following provisions of the Education (Mandatory Awards) (Amendment) Regulations 2004(d) are revoked—

- (a) regulation 6;
- (b) regulation 7; and
- (c) the Schedule to those Regulations.

4. The Education (Mandatory Awards) (Amendment) (No. 2) Regulations 2004(e) are revoked.

(a) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c.20); section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4; section 4 was amended by the Education Act 1994 (c.30), Schedule 2, paragraph 2; the entire Act was repealed by the Teaching and Higher Education Act 1998 (c.30), section 44(2) and Schedule 4, subject to the transitional and saving provisions set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I. 1998/3237 (c.81)), article 3.

(b) 1973 c. 16; section 3 was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional and saving provisions set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I. 1998/3237 (c.81)), article 3.

(c) S.I. 2003/1994, as amended by S.I. 2004/1038 and S.I. 2004/1792.

(d) S.I. 2004/1038.

(e) S.I. 2004/1792.

Amendment of the Principal Regulations

5. The Principal Regulations are amended in accordance with these Regulations.
- 6.—(1) Regulation 2 is amended in accordance with this regulation.
- (2) Before the definition of “academic authority”, insert—
- ““the 2005 Act” means the Education Act 2005(a);”.
- (3) After the definition of “award”, insert—
- ““category 2 European Student” means a person who is a national of a member state of the European Community—
- (a) who has been ordinarily resident in the British Islands throughout the three year period immediately preceding the start of the relevant designated course;
- (b) who, where he is a national of the United Kingdom, has a right to be treated no less favourably than a national of another member state by virtue of having exercised a Community right of free movement; and
- (c) who, in a case where his ordinary residence referred to in sub-paragraph (a) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the European Economic Area immediately prior to the period of ordinary residence referred to in sub-paragraph (a).”.
- (4) For the definition of “European student”, substitute—
- ““European student” means a person who is a national of a member state of the European Community or the child of such a national—
- (a) who has not been ordinarily resident in the British Islands as described in regulation 13(1)(a), whose residence in the British Islands has been wholly or mainly for the purposes of receiving full-time education as described in regulation 13(1)(b) or who is not settled in the United Kingdom as described in regulation 13(1)(c); and
- (b) who is not a category 2 European student;”.
- (5) In the definition of “institution” for “Part I of the Education Act 1994”, substitute “Part 3 of the 2005 Act”.
- (6) In the definition of “new academic term” for “2004”, substitute “2005”.
- (7) For the definition of “new payment”, substitute—
- ““new payment” means a payment made under these Regulations as amended by the Education (Mandatory Awards) (Amendment) Regulations 2004 and the Education (Mandatory Awards) (Amendment) Regulations 2005;”.
- (8) For the definition of “old payment”, substitute—
- ““old payment” means a payment which would have been made under these Regulations, as amended by the Education (Mandatory Awards) (Amendment) Regulations 2004 and the Education (Mandatory Awards) (Amendment) (No.2) Regulations 2004, if they had not been amended by the Education (Mandatory Awards) (Amendment) Regulations 2005;”.
- 7.—(1) Regulation 7 is amended in accordance with this regulation.
- (2) In paragraph 1(1)(a) and (b) for “2003” where it occurs, substitute “2004”.
- 8.—(1) Regulation 10 is amended in accordance with this regulation.
- (2) For paragraph (1)(d)(i), substitute—
- “(i) a full-time course for the initial teacher training of teachers (other than a course for the degree of Bachelor of Education) provided—

(a) 2005 c. 18.

- (aa) by a publicly funded institution; or
- (bb) where a private institution is a training provider within the meaning of section 78 of the 2005 Act or an eligible institution within the meaning of section 86 of the 2005 Act, by a public institution in conjunction with such a private institution; or
- (cc) by a private institution of the type referred to in (bb);”.

9.—(1) Regulation 11 is amended in accordance with this regulation.

(2) After paragraph (2)(d), insert—

“(dd) in the case of a category 2 European student who—

- (i) started a designated course on or after 1st September 2004 but before 1st September 2005; and
 - (ii) is applying for an award in respect of that course,
- where the application reaches the authority by 1st January 2006.”.

10.—(1) Regulation 13 is amended in accordance with this regulation.

(2) After paragraph (1), insert—

“(1A) Paragraph 1(a) to (c) shall not apply in the case of a category 2 European student.”.

11.—(1) Schedule 1 is amended in accordance with this regulation.

(2) For paragraph (iii), substitute—

“(iii) in the case of a course at the University of Buckingham, £2,770 payable in four instalments of £692, £692, £693 and £693; in the case of a course at the Guildhall School of Music, £4,250 payable in three instalments of £1,416, £1,417 and £1,417; and in the case of a course at Heythrop College, £2,095 payable in three instalments of £698, £698 and £699;”.

12.—(1) Schedule 2 is amended in accordance with this regulation.

(2) In paragraph 13(4)—

- (a) in sub-paragraph (a), omit “and has not made an election under paragraph (3) of Schedule 4”;
- (b) in sub-paragraph (b)—
 - (i) after “is” in the first place it appears, insert “not”;
 - (ii) omit “and has not made an election under paragraph (3) of Schedule 4”.

(3) In paragraph 14—

- (a) in sub-paragraph (1), omit “has not made an election under paragraph (3) of Schedule 4 and he”;
- (b) in sub-paragraph (3) for “paragraph 13(2)” in the second and third places it appears, substitute “sub-paragraph (2)”;
- (c) in sub-paragraph (9) for the definition of “approved childcare provider”, substitute—

““approved childcare provider” means a childcare provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999(a) or the Tax Credits (Approval of Child Care Providers) Scheme 2005(b); and”.

13.—(1) Schedule 3 is amended in accordance with this regulation.

(2) In paragraph 1—

- (a) for sub-paragraph (1)(c), substitute—

(a) S.I. 1999/3110.
 (b) S.I. 2005/93.

“(c) any grant to facilitate teacher training paid to the student under Part 2 of the Education Act 2002 or section 78 of the 2005 Act, any payment made in respect of the student’s training as a teacher by an institution to which grants, loans or other payments for that purpose are provided under section 78 or 86 of the 2005 Act or under section 65(3) of the Further and Higher Education Act 1992;”;

(b) in sub-paragraph (3) after “European student”, insert “or a category 2 European student”.

(3) For paragraph 4(2), substitute—

“(2) Where a contribution is ascertained in respect of more than one child of the student’s parent the aggregate of the contributions shall not exceed the contribution that would be ascertained if only one child held such an award or, if that amount is different in respect of each child, the lower, or as the case may be, lowest such amount.

(2A) The amount or, where a contribution is ascertained in respect of more than one child of the student’s parent, the aggregate amount of the parental contribution ascertained under this Part shall in no case exceed £7,250.”.

(4) For paragraph 4(4) to (6), substitute—

“(4) Subject to sub-paragraphs (5) and (6), for any year in which a statutory award under these Regulations, the Education (Student Support) Regulations 2005 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 student’s parent, the parental contribution payable in respect of the student shall be an amount equal to the aggregate of the contributions ascertained in accordance with this Part divided by the number of children of his parent who hold a relevant statutory award.

(5) Subject to sub-paragraph (6), if, as a result of the apportionment under sub-paragraph (4), any part of the parental contribution ascertained in accordance with this Part would not be applied in respect of the student’s statutory award, the remainder of the contribution shall be applied—

(a) first in relation to the smallest statutory award (or equally to each such award) to which the contribution may be applied; and

(b) then to the remaining statutory award to which the contribution may be applied or, if there is more than one remaining statutory award to which the contribution may be applied, equally to each such award.

(6) If, after apportioning the remaining parental contribution equally under sub-paragraph 5(b)—

(a) any amount of the parental contribution ascertained under this Part still has not been applied; and

(b) there remains one or more statutory awards to which the contribution may be applied,

the balance of the contribution shall be applied to the remaining statutory award or awards, in increasing order of size, to which the contribution may be applied, until there remains no such statutory award to which the contribution has not been applied.”.

14.—(1) Schedule 4 is amended in accordance with this regulation.

(2) For paragraph 2(2), substitute—

“(2) In the case of such a student the sum to be disregarded under paragraph 1(1)(a) of Schedule 3 shall be £2,055 instead of £945.”.

(3) Omit paragraph 3.

15.—(1) Schedule 5 is amended in accordance with this regulation.

(2) In paragraph 1(4) for “references to Schedules 2 and 3 are to be construed as references to those Schedules”, substitute “references to Schedule 3 are to be construed as references to that Schedule”.

(3) In paragraph 3(c) omit “except that where such a requirement falls to be increased under paragraph 16 it shall be increased by the prescribed proportion or the sum there specified”.

16. The figures in the third column of the table in Schedule 1 to these Regulations are substituted for the figures in the second column where they appear in the provisions of the Principal Regulations set out in the first column of the table.

17. The Principal Regulations are also amended in accordance with Schedule 2.

Modifications applying while the Civil Partnership Act 2004 is not in force

18. During such time as section 1 of the Civil Partnership Act 2004(a) is not in force in England and Wales, regulation 17 and Schedule 2 to these Regulations shall not have effect.

26th July 2005

Bill Rammell
Minister of State
Department for Education and Skills

(a) 2004 c. 33.

SCHEDULE 1

Regulation 16

NEW PAYMENT RATES

<i>Provision in the Principal Regulations</i>	<i>Existing figure (£)</i>	<i>New figure (£)</i>
Regulation 21		
21(3)	810	830
21(4)	1,100	1,130
21(4)(a)	1,375	1,410
21(4)(b)	1,190	1,220
Schedule 1		
Paragraph (i)	1,150 560	1,175 570
Paragraph (ii)	1,075	1,100
Paragraphs (iv), (v), (vi) and (viii)	560	570
Schedule 2, Part 1		
Paragraph 2(2)	2,090	2,140
Paragraph 2(2)(a)	2,570	2,635
Paragraph 2(2)(b)	2,990	3,065
Paragraph 3	1,705	1,745
Schedule 2, Part 2		
Paragraph 5(2)(a)	49	50
Paragraph 5(2)(b)	73	75
Paragraph 5(2)(b)(i)	94	96
Paragraph 5(2)(b)(ii)	101	104
Paragraph 7(2)	275	280
Paragraph 9(2)(a)	11,550	11,840
Paragraph 9(2)(b)	4,565	4,680
Paragraph 9(2)(c)	1,525	1,565
Schedule 2, Part 3		
Paragraph 12(3)	3,360	3,445
Paragraph 13(1)	2,335	2,395
Paragraph 13(1)(b)	3,360	3,445
Paragraph 13(2)(b)(i)	1,025	1,050
Paragraph 13(2)(b)(ii)	3,070	3,145
Paragraph 13(2)(b)(iii) and (iv)	4,095	4,195
Paragraph 13(2)(b)(v)	5,120	5,250
Paragraph 13(4)(a)	1,330	1,365
Paragraph 13(4)(b)	1,330 1,280	1,365 1,315
Paragraph 14(2)(a)	114.75	148.75
Paragraph 14(2)(b)	170	255
Paragraph 14(5)(b)(i)	1,025	1,050
Paragraph 14(5)(b)(ii)	3,070	3,145
Paragraph 14(5)(b)(iii) and (iv)	4,095	4,195
Paragraph 14(5)(b)(v)	5,120	5,250

Paragraph 14(7)(b)(i)	1,025	1,050
Paragraph 14(7)(b)(ii)	3,070	3,145
Paragraph 14(7)(b)(iii) and (iv)	4,095	4,195
Paragraph 14(7)(b)(v)	5,120	5,250
Schedule 3, Part 1		
Paragraph 1(1)(a)	920	945
Paragraph 1(1)(b)	4,350	4,460
Paragraph 1(1)(q)	3,500	3,590
Schedule 3, Part 2		
Paragraph 4(1)	21,475 85	22,010 87
Paragraph 6(2)(a)	2,475	2,535
Paragraph 6(2)(d) and (e)	1,940	1,990
Paragraph 6(2)(g)	1,000	1,025
Schedule 3, Part 3		
Paragraph 8(2)	18,475 85 7,075	18,935 87 7,250
Schedule 5		
Paragraph 4(a)	920	945

SCHEDULE 2

Regulation 17

CIVIL PARTNERSHIPS

1. After regulation 3(1)(c), insert—
 - “(cc) has formed a civil partnership before the beginning of the year for which payments in pursuance of his award fall to be made whether or not the civil partnership is still subsisting; or”.
- 2.—(1) Regulation 5 is amended in accordance with this paragraph.
 - (2) After paragraph (3), insert—
 - “(3A) For the purposes of these Regulations a person’s civil partnership is to be treated as having been terminated, not only by the death of the other civil partner or the annulment or dissolution of the civil partnership by an order of a court of competent jurisdiction, but also by virtue of the parties to the civil partnership ceasing ordinarily to live together, whether or not an order for their separation has been made by any court.”.
 - (3) In paragraph (4) after “spouse”, insert “or civil partner”.
3. In regulation 11(2)(d) after “spouse”, insert “or civil partner”.
- 4.—(1) Regulation 13 is amended in accordance with this paragraph.
 - (2) In paragraph (2) after “spouse” in both places it occurs, insert “, civil partner”.
 - (3) In paragraph (3)(c) after “spouse” in both places it occurs, insert “or civil partner”.
5. In regulation 18(1)(b) after “or 3”, insert “or 3A”.
6. In regulation 25(6)(b) after “spouse” in both places it occurs, insert “or civil partner”.
- 7.—(1) Schedule 2 is amended in accordance with this paragraph.
 - (2) In paragraph 12(1)—
 - (a) for the definition of “adult dependant”, substitute—
 - ““adult dependant” means, in relation to a student, an adult person dependent on the student not being his child, his spouse or a person living with him as his spouse, his former spouse, his civil partner or a person living with him as his civil partner or his former civil partner, subject however to sub-paragraphs (2) and (3);”;
 - (b) after the definition of “child”, insert—
 - ““civil partner”, except in the definition above of adult dependant, shall not include a student’s civil partner if they have ceased ordinarily to live together whether or not an order for their separation has been made by any court;”;
 - (c) in the definition of “dependant” after “spouse” in both places that it occurs, insert “or civil partner”;
 - (d) in the definition of “income”—
 - (i) after “ spouse” in all of the places it occurs, insert “or civil partner”;
 - (ii) in paragraph (f) after “spouse’s”, insert “or civil partner’s”.
 - (3) In paragraph 12(2) after “spouse”, insert “or civil partner”.
 - (4) In paragraph 13(1)(a) after “spouse”, insert “or civil partner”.
 - (5) In paragraph 13(3)(a)—
 - (a) after “spouse”, insert “or civil partner”;
 - (b) after “spouse’s”, insert “or civil partner’s”.
 - (6) In paragraph 14(1) after “spouse”, insert “or civil partner”.

- (7) In paragraph 14(8)—
- (a) after “spouse” insert, “or civil partner”;
 - (b) after “spouse’s” insert, “or civil partner’s”.
- (8) In paragraph 16 after “spouse” in both places it occurs, insert “or civil partner”.
- 8.—**(1) Schedule 3 is amended in accordance with this paragraph.
- (2) In paragraph 1(1)—
- (a) in paragraph (d) after “spouse’s contribution ascertained in accordance with Part 3” insert, “or a civil partner’s contribution ascertained in accordance with Part 3A”;
 - (b) in paragraph (e) after “pension” in the second place it occurs, insert “or equivalent pension paid to a surviving civil partner”;
 - (c) in paragraph (q) after “spouse”, insert “, civil partner”;
 - (d) for paragraph (u), substitute—
 - “(u) the first £7,500 of income of any description, other than a sum treated as income under sub-paragraph (6), where—
 - (i) a parental contribution does not apply because the student falls within paragraph 3 of this Schedule; and
 - (ii) a spouse’s contribution does not apply under Part 3 of this Schedule or a civil partner’s contribution does not apply under Part 3A of this Schedule.”.
- (3) In paragraph 1(4) after “or person who lived with him as his spouse”, insert “or former civil partner or person who lived with him as his civil partner”.
- (4) In paragraph 1(5) after “Schedule 2”, insert—
- “or from the income of a student who has formed a civil partnership where the student’s civil partner is a dependant for the purpose of Part 3 of that Schedule”.
- (5) In paragraph 6(2)—
- (a) in sub-paragraph (a) after “spouse,”, insert “civil partner,”;
 - (b) in sub-paragraph (e) after “marriage”, insert “or civil partnership”.
- (6) After paragraph 8 insert—

“Part 3A

Civil Partner’s Contribution

Application of Part 3A

9. A civil partner’s contribution ascertained in accordance with this Part shall be applicable in the case of every student ordinarily living with his civil partner except—

- (a) a student in whose case a parental contribution is applicable in accordance with Part 2; and
- (b) a student whose child holds an award in respect of which a parental contribution is applicable.

Civil partner’s contribution

10.—(1) Subject to sub-paragraphs (3) and (4), Part 2 above, except paragraphs 3, 4(1), (2), (3)(a) and (c), 5(4), (7), (8) and (9), and 6(2)(e), shall apply with the necessary modifications for the ascertainment of the civil partner’s contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed as references to the student’s civil partner and this Part shall be construed as one with the said Part 2.

(2) The civil partner's contribution shall be in any case in which the residual income is £18,935 or more £45 with the addition of £1 for every complete £8 by which it exceeds £18,935, reduced in any such case by £87 in respect of each child of the student who is dependent on him or his civil partner on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than £18,935 the civil partner's contribution shall be nil; provided that the amount of the civil partner's contribution shall in no case exceed £7,250.

(3) If the student forms a civil partnership during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the date of formation of the civil partnership or the date on which the civil partnership is treated as having been formed and whichever is the earlier of the end of that year and the end of the course.

(4) If the student's civil partnership terminates during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the civil partnership.”.

9. In paragraph 1 of Schedule 4 after “or with another person as a spouse”, insert “or with a civil partner or with another person as a civil partner”.

10. After paragraph 4(d) of Schedule 5, insert—

“(e) the amount of the civil partner's contribution applicable to his case shall be the prescribed proportion of the contribution ascertained in accordance with Part 3A.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Mandatory Awards) Regulations 2003 (S.I 2003/1994) (the “Principal Regulations”). The Principal Regulations ensure that students who began their courses before 1st September 1998, and certain other students, continue to receive mandatory awards and payments under mandatory awards until the end of their courses.

In addition to minor and drafting amendments, these Regulations make the following changes of substance to the Principal Regulations.

Regulation 6 amends the Principal Regulations so that the new payment rates prescribed in Schedule 1 to these regulations shall only apply in relation to an academic term which commences on or after 1 September 2005. Where an academic year starts before 1st September 2005, but ends after 1st September 2005, the old payment rates and the new payment rates shall be applied proportionally.

Regulation 6 also creates a new category of students who are eligible for mandatory awards in respect of their attendance on courses beginning on or after 1st September 2004. Regulations 9 and 10 make consequential provisions in this regard.

Regulations 6, 8 and 13 amend the Principal Regulations as a consequence of the substitution of relevant provisions of the Education Act 1994 by the Education Act 2005.

Regulation 14 amends the Principal Regulations so as to remove the lone parent grant. Regulation 12 makes various consequential changes in this regard.

Regulation 11 specifies increases in the rates of fee awards in relation to courses at the University of Buckingham, the Guildhall School of Music and Heythrop College. Increases in relation to other fee awards and grants are provided for in regulation 16 and set out in Schedule 1 to these regulations.

Regulation 17 and Schedule 2 amend the Principal Regulations to enable persons who form civil partnerships to benefit from certain grants under the Regulations and also to enable the income of a person’s civil partner to be taken into account when calculating a student’s resources. Regulation 18 provides that these modifications do not take effect whilst section 1 of the Civil Partnership Act 2004 (c.33) is not in force.

These Regulations also revoke the Education (Mandatory Awards) (Amendment) (No.2) Regulations 2004 and partially revoke the Education (Mandatory Awards) (Amendment) Regulations 2004.

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

STATUTORY INSTRUMENTS

2005 No. 2083

EDUCATION, ENGLAND AND WALES

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2005**

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