
STATUTORY INSTRUMENTS

2011 No. 1986

The Education (Student Support) Regulations 2011

PART 11

SUPPORT FOR PART-TIME COURSES

Interpretation of Part 11

136.—(1) In this Part (except for purposes of regulation 139(1)(e)), the current part-time course is treated as beginning before 1st September 2012 in relation to a student (“A”) where—

- (a) A transfers to the current part-time course pursuant to regulation 151 on or after 1st September 2012 from a designated part-time course beginning before 1st September 2012; or
- (b) the current part-time course is an end-on course of the kind described in paragraph (g) of the definition of “end-on” course in regulation 2.

(2) In this Part,—

- (a) “period ordinarily required to complete the full-time equivalent” means—
 - (i) where the course is provided by or on behalf of the Open University, the period that a standard full-time student would require to complete the full-time equivalent if that student were awarded 120 credit points in each academic year;
 - (ii) where the course is provided by or on behalf of any other institution, the period in which a standard full-time student would complete the full-time equivalent;
- (b) “standard full-time student” is a student who is to be taken—
 - (i) to have begun the full-time equivalent on the same date as the eligible part-time student began the part-time course in question;
 - (ii) not to have been excused any part of the full-time equivalent;
 - (iii) not to have repeated any part of the full-time equivalent; and
 - (iv) not to be absent from the full-time equivalent other than during vacations.

(3) In this Part, the intensity of study is calculated as follows and expressed as a percentage—

$$\frac{PT}{FT} \times 100$$

where

PT is the number of modules, credits, credit points, points or other unit to be awarded to the eligible part-time student by the academic authority if the student successfully completes the academic year in connection with which that student is applying for support;

FT is—

- (a) where the course is provided by or on behalf of the Open University, 120;

- (b) where the course is provided by or on behalf of any other institution, the number of modules, credits, credit points, points or other unit that a standard full-time student would be required to obtain in each academic year in order to complete the full-time equivalent within the period ordinarily required to complete that course.

Eligible part-time students

137.—(1) An eligible part-time student qualifies for support in connection with the student's undertaking a designated part-time course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible part-time student in connection with a designated part-time course if in assessing the person's application for support the Secretary of State determines that the person falls within one of the categories set out in Part 2 of Schedule 1.

(3) A person ("A") is not an eligible part-time student if—

- (a) A is eligible to apply for, in connection with the part-time course—
 - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to A's income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007;
- (b) A is in breach of any obligation to repay any loan;
- (c) A has reached the age of 18 and has not ratified any agreement for a loan A made when A was under the age of 18;
- (d) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support; or
- (e) subject to paragraph (4), A is a prisoner.

(4) Paragraph (3)(e) does not apply—

- (a) where the student is an eligible prisoner; or
- (b) in respect of an academic year during which the student enters prison or is released from prison.

(5) For the purposes of paragraphs (3)(b) and (3)(c), "loan" means a loan made under any provision of the student loans legislation.

(6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) only applies if the agreement was made—

- (a) before 25th September 1991; and
- (b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.

(7) Subject to paragraphs (10) to (12), if a person satisfies the conditions in paragraph (8) or (9)—

- (a) paragraphs (2) and (3) do not apply to that person; and
- (b) the person is an eligible part-time student for the purposes of this Part.

(8) The conditions in this paragraph are—

- (a) the person qualified as an eligible part-time student in connection with an earlier academic year of the current designated part-time course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
- (b) the person was not ordinarily resident in Wales on the first day of the current designated part-time course; and
- (c) the person's status as an eligible part-time student has not terminated.

- (9) The conditions in this paragraph are—
- (a) the Secretary of State has previously determined that the person is—
 - (i) an eligible student in connection with a designated course;
 - (ii) an eligible distance learning student in connection with a designated distance learning course; or
 - (iii) an eligible part-time student in connection with a designated part-time course other than the current designated part-time course;
 - (b) the person's status as an eligible student, as an eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current designated part-time course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
 - (d) the person's status as an eligible part-time student has not terminated.
- (10) Where—
- (a) the Secretary of State determined that, by virtue of being a person granted humanitarian protection or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which A's status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the current part-time course; and
 - (b) as at the day before the academic year in respect of which A is applying for support begins the period for which the person granted humanitarian protection is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.

- (11) Where—
- (a) the Secretary of State determined that, by virtue of being a person granted humanitarian protection or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which A's status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the current part-time course; and
 - (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person granted humanitarian protection is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(12) Paragraphs (10) and (11) do not apply where A began the course in connection with which the Secretary of State determined that A was an eligible part-time student or eligible student, as the case may be, before 1st September 2007.

(13) An eligible part-time student may not, at any one time, qualify for support for—

- (a) more than one designated part-time course;
- (b) a designated part-time course and a designated course;
- (c) a designated part-time course and a designated distance learning course;
- (d) a designated part-time course and a designated postgraduate course.

Students becoming eligible during the course of the academic year

138.—(1) In respect of courses beginning before 1st September 2012, where one of the events listed in paragraph (4) occurs in the course of an academic year, a student may qualify for a grant of fees in respect of that academic year in accordance with this Part provided that—

- (a) the relevant event occurred within the first three months of the academic year; and
- (b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(2) In respect of courses beginning before 1st September 2012, where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant for books, travel and other expenditure or for disabled part-time students' allowance (or both) in respect of that academic year in accordance with this Part; and
- (b) neither a grant for books, travel and other expenditure or disabled part-time students' allowance is available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(3) In respect of courses beginning on or after 1st September 2012, where one of the events listed in paragraph (4) occurs in the course of an academic year, a student may qualify for a fee loan in respect of that academic year in accordance with this Part provided that—

- (a) the relevant event occurred within the first three months of the academic year; and
- (b) a fee loan is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The events are—

- (a) the student's course becomes a designated part-time course;
- (b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person granted humanitarian protection;
- (c) a state accedes to the EU and the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EU national;
- (e) the state of which the student is a national accedes to the EU where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (f) the student acquires the right of permanent residence;
- (g) the student becomes the child of a Turkish worker;
- (h) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or

- (i) the student becomes the child of a Swiss national.

Designated part-time courses

139.—(1) Subject to paragraphs (3), (4) and (5), a part-time course is designated for the purposes of section 22(1) of the 1998 Act and regulation 137 if—

- (a) it is a course mentioned in Schedule 2, other than a course for the initial training of teachers which—
 - (i) began before 1st September 2010; or
 - (ii) begins on or after 1st September 2010 where the student transfers to the current course pursuant to regulation 7 from a course for the initial training of teachers which began before 1st September 2010;
- (b) it is of at least one academic year's duration;
- (c) it is ordinarily possible to complete the course in not more than—
 - (i) twice the period ordinarily required to complete the full-time equivalent where the course began before 1st September 2012; or
 - (ii) four times the period ordinarily required to complete the full-time equivalent where the course begins on or after 1st September 2012;
- (d) it is wholly provided by a publicly funded educational institution or institutions in the United Kingdom or is provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom;
- (e) for a course beginning on or after 1st September 2012 which falls within paragraph 1, 2, 4, 6, 7 or 8 of Schedule 2, it leads to an award granted or to be granted by a body falling within section 214(2)(a) or (b) of the Education Reform Act 1988⁽¹⁾.
- (f) it is not designated by or under regulation 5; and
- (g) it is not designated under regulation 122.

(2) In paragraph (1)(e), “award” means any degree, diploma, certificate or other academic award or distinction.

(3) A course falling within paragraph 7 or 8 of Schedule 2 is not a designated part-time course where the governing body of a maintained school or Academy has arranged for the provision of such a course to a pupil of the school or Academy.

(4) A course that is taken as part of an employment-based teacher training scheme is not a designated part-time course.

- (5) A first degree course is not a designated part-time course where—
 - (a) it leads to the award of a professional qualification;
 - (b) a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification; and
 - (c) the current course begins on or after 1st September 2009.
- (6) For the purposes of paragraph (1)—
 - (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;

(1) 1988 c.40. Section 214(2) was amended by the Further and Higher Education Act 1992 (c.13), section 93 and Schedule 8.

- (b) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
- (c) an institution is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(2).

(7) For the purposes of section 22 of the 1998 Act and regulation 137(1) the Secretary of State may designate courses of higher education which are not designated by paragraph (1).

Period of eligibility

140.—(1) A student’s status as an eligible part-time student is retained in connection with a designated part-time course until the status terminates in accordance with this regulation or regulation 137.

(2) The period for which an eligible part-time student’s status is retained is the “period of eligibility”.

(3) Subject to the following paragraphs and regulation 137, the period of eligibility terminates at the end of the academic year in which the eligible part-time student completes the designated part-time course.

(4) The period of eligibility terminates when the eligible part-time student—

- (a) withdraws from the designated part-time course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert the student’s status under regulation 151 or 152; or
- (b) abandons or is expelled from the designated part-time course.

(5) The period of eligibility terminates at the end of the relevant academic year where the eligible part-time student cannot complete the designated part-time course within the relevant period specified in regulation 139(1)(c).

(6) For the purposes of paragraph (5), “relevant academic year” means the academic year during or at the end of which it becomes impossible for the student to complete the course within the period specified in regulation 139(1)(c) even if the student increases the intensity of the student’s study.

(7) The Secretary of State may terminate the period of eligibility where the eligible part-time student (“A”) has shown by A’s conduct that A is unfitted to receive support.

(8) If the Secretary of State is satisfied that an eligible part-time student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Secretary of State may take such of the following actions as the Secretary of State considers appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 156.

(9) Where the period of eligibility terminates—

- (a) before the end of the academic year in which the eligible part-time student completes the designated part-time course; and
- (b) otherwise than under paragraph (5),

(2) 1992 c.13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c.30), section 27.

the Secretary of State may, at any time, renew or extend the period of eligibility for such period as the Secretary of State determines.

Assistance for part-time courses in respect of courses beginning before 1st September 2012

141.—(1) For the purposes of this regulation, the assistance available in respect of a designated part-time course beginning before 1st September 2012—

- (a) a grant in respect of fees not exceeding the lesser of the following amounts—
 - (i) the basic grant, and
 - (ii) the “actual fees”, being the amount of fees charged to the student in respect of an academic year of the designated part-time course; and
- (b) a grant not exceeding £265 for books, travel and other expenditure in connection with the designated part-time course.

(2) An eligible part-time student does not qualify for assistance under paragraph (1)(b) if the only paragraph in Part 2 of Schedule 1 into which the student falls is paragraph 9.

(3) An eligible part-time student qualifies for assistance in respect of a course beginning before 1st September 2012—

- (a) under paragraph (1)(a) if the Secretary of State considers that the student is undertaking the designated part-time course in England; and
- (b) under paragraph (1)(b) if the Secretary of State considers that the student is undertaking the designated part-time course in the United Kingdom.

(4) An eligible part-time student does not qualify for support under this regulation if the student has undertaken one or more part-time courses for eight academic years in aggregate and the student has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (5).

(5) The loans and grants are—

- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course pursuant to regulations made under section 22 of the 1998 Act;
- (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998; or
- (c) a loan in respect of an academic year of a part-time course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.

(6) An eligible part-time student does not qualify for support under this regulation if –

- (a) the part time course leads to an equivalent or lower qualification where the current course began on or after 1st September 2009; or
- (b) the student holds a honours degree from an educational institution in the United Kingdom where—
 - (i) the current course began before 1st September 2009; or
 - (ii) the current course begins on or after 1st September 2009 where the student transfers to the current course pursuant to regulation 151 from a part-time course which began before 1st September 2009.

(7) An eligible part-time student is not prevented from qualifying for support under this regulation if –

- (a) the current course is a course for the initial training of teachers which started on or after 1st September 2010 and before 1st September 2012;
- (b) the duration of the current course does not exceed four years; and
- (c) the student is not a qualified teacher .

Amount of assistance in respect of courses beginning before 1st September 2012

142.—(1) The basic grant varies according to the intensity of study.

(2) The “basic grant” is—

- (a) £820 where the intensity of study is less than 60 per cent. (“level 1”);
- (b) £985 where the intensity of study is 60 per cent. or more but less than 75 per cent. (“level 2”);
- (c) £1,230 where the intensity of study is 75 per cent. or more (“level 3”).

(3) Subject to paragraph (4) and regulation 151(6), the amount of assistance payable in respect of an academic year is determined as follows—

- (a) if at the date of the application the eligible part-time student or the student’s partner is entitled—
 - (i) under Part VII of the Social Security Contributions and Benefits Act 1992 to income support, housing benefit or council tax benefit;
 - (ii) under Part 1 of the Jobseekers Act 1995 to income-based jobseeker’s allowance or under section 2 of the Employment and Training Act 1973 to an allowance under the arrangements known as the New Deal; or
 - (iii) under Part 1 of the Welfare Reform Act 2007 to an income-related employment and support allowance;

the maximum amount of assistance available under regulation 141(1) is payable.

- (b) where the relevant income is less than £16,845, the maximum amount of assistance available under regulation 141(1) is payable;
- (c) where the relevant income is £16,845, the maximum amount of assistance available under regulation 141(1)(b) is payable together with £50 less than the maximum amount of assistance available under regulation 141(1)(a);
- (d) where the relevant income exceeds £16,845 but is less than £25,420, the maximum amount of assistance available under regulation 141(1)(b) is payable and the amount of assistance payable under regulation 141(1)(a) is the amount determined in accordance with paragraph (4);
- (e) where the relevant income is £25,420, the maximum amount of assistance available under regulation 141(1)(b) is payable and the amount of assistance payable under regulation 141(1)(a) is £50;
- (f) where the relevant income exceeds £25,420 but is less than £26,030, the maximum amount of assistance available under regulation 141(1)(b) is payable and no assistance is payable under regulation 141(1)(a);
- (g) where the relevant income is £26,030 or more but less than £28,065, the amount of assistance payable under regulation 141(1)(b) is the amount left after deducting from the maximum amount of assistance available under regulation 141(1)(b) £1 for every complete £9.47 by which the relevant income exceeds £26,030, and no assistance is payable under regulation 141(1)(a);
- (h) where the relevant income is £28,065, the amount of assistance payable under regulation 141(1)(b) is £50, and no assistance is payable under regulation 141(1)(a);

- (i) where the relevant income exceeds £28,065, no assistance is payable under regulation 141(1).
- (4) Where paragraph (3)(d) applies, the amount of assistance payable under regulation 141(1) (a) is determined by deducting from the maximum amount of assistance available under regulation 141(1)(a) one of the following amounts—
 - (a) £50 plus a further £1 for each complete £11.91, £9.69 or £7.59 by which the relevant income exceeds £16,845 according to whether the intensity of study is level 1, 2 or 3, respectively; or
 - (b) where the basic grant is greater than the actual fees, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between the basic grant and the actual fees (unless the amount is a negative number in which case the maximum amount of assistance available under regulation 141(1)(a) is payable).

Interpretation of regulation 142

143.—(1) For the purposes of regulation 142—

- (a) subject to sub-paragraph (b), “partner” means any of the following—
 - (i) the spouse of an eligible part-time student;
 - (ii) the civil partner of an eligible part-time student;
 - (iii) a person ordinarily living with an eligible part-time student as if the person were the student’s spouse where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which that student is being assessed for assistance and where that student began the specified designated part-time course before 1st September 2005;
 - (iv) a person ordinarily living with an eligible part-time student as if the person were the student’s spouse or civil partner where an eligible part-time student begins the specified designated part-time course on or after 1st September 2005;
 - (b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—
 - (i) in the opinion of the Secretary of State, that person and the eligible part-time student are separated; or
 - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;
 - (c) “relevant income” has the meaning given in paragraph (2).
- (2) Subject to paragraph (3), an eligible part-time student’s relevant income is equal to the student’s financial resources in the preceding financial year less—
- (i) £2,000 in respect of the student’s partner;
 - (ii) £2,000 in respect of the only or eldest child who is dependent on the student or the student’s partner; and
 - (iii) £1,000 in respect of each other child who is dependent on the student or the student’s partner.
- (3) Where the Secretary of State is satisfied that an eligible part-time student’s financial resources in the preceding financial year are greater than the student’s financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, the Secretary of State may assess that student’s financial resources by reference to those resources in the current financial year.
- (4) In this regulation—

- (a) “child” in relation to an eligible part-time student includes any child of the student’s partner and any child for whom the student has parental responsibility;
- (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person is being assessed for assistance;
- (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) “financial resources in a financial year” means the aggregate of the student’s income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner;
- (f) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002 and any higher education bursary;
- (g) “preceding financial year” means the financial year immediately preceding the current financial year;
- (h) “specified designated part-time course” means the course in respect of which the person is applying for support or, where the student’s status as an eligible part-time student has been transferred to the current designated part-time course as a result of one or more transfers of that status by the Secretary of State from a part-time course (the “initial course”) in connection with which the Secretary of State determined the student to be an eligible part-time student pursuant to regulations made under section 22 of the 1998 Act, the specified designated part-time course means the initial course.

Fee support for designated part-time courses beginning on or after 1st September 2012

144.—(1) An eligible part-time student (“A”) qualifies for a fee loan in respect of the fees payable by A in connection with A’s undertaking a designated part-time course beginning on or after 1st September 2012.

(2) A part-time student does not qualify for a fee loan if the intensity of study during the academic year for which support is claimed is less than 25%.

(3) An eligible part-time student qualifies for a fee loan under paragraph (1) if the Secretary of State considers that the student is attending the course in the United Kingdom or (where the course is a part-time distance learning course) the Secretary of State considers that the student is undertaking the course in England.

(4) An eligible part-time student does not qualify for support under this regulation if the current part-time course leads to an equivalent or lower qualification.

(5) An eligible part-time student does not qualify for support under this regulation if—

- (a) the student has undertaken one or more part-time courses for sixteen academic years in aggregate; and
- (b) the student was eligible to apply for a fee loan under this regulation or a loan or grant of the kind described in regulation 141(5) in respect of each of those academic years.

(6) An eligible part-time student is not prevented from qualifying for fee support under this regulation if—

- (a) the current part-time course is a course for the initial training of teachers which started on or after 1st September 2012;
- (b) the duration of the current course does not exceed four years; and

- (c) the student is not a qualified teacher.

Amount of the fee loan - courses beginning on or after 1st September 2012

145.—(1) The amount of a fee loan in respect of an academic year of a designated part-time course must not exceed the lesser of—

- (a) the fees payable by the student in connection with that year; and
- (b) the maximum amount.

(2) For the purposes of this regulation, the “maximum amount” means-

- (a) £6,750 where the current part-time course is provided by or on behalf of a publicly funded institution;
- (b) £4,500 where the current part-time course is provided by a private institution (other than on behalf of a publicly funded institution).

(3) If a student’s status as an eligible part-time student is transferred from one designated part-time course to another under regulation 151 and the circumstances in paragraph (4) apply, the student may apply to the Secretary of State to borrow an additional amount by way of a fee loan in respect of the academic year of the course to which that student transfers.

(4) The circumstances are—

- (a) the fees payable in respect of the academic year of the course to which the student transfers exceed the fees payable in respect of the academic year of the course from which the student is transferring; and
- (b) the academic year of the course to which the student transfers does not begin on a later date than the academic year of the course from which the student is transferring.

(5) If a student’s status as an eligible part-time student is transferred from one designated part-time course to another under these Regulations and the circumstances in paragraph (6) apply, the student may apply to the Secretary of State for another fee loan in respect of the academic year of the course to which the student transfers.

(6) The circumstances are that the academic year of the course to which the current system student transfers begins on a later date than the academic year of the course from which that student is transferring.

(7) Where paragraph (3) applies, the maximum additional amount that the student may borrow in respect of the academic year to which that student transfers, provided that the student qualifies for a fee loan in respect of that year, is determined by deducting the amount of any fee loan the student has taken out under these Regulations in respect of the academic year from which the student is transferring from the lesser of—

- (a) the amount specified in paragraph (2) applicable in the student’s case; and
- (b) the fees payable by the student in respect of the academic year to which the student is transferring.

(8) Where paragraph (5) applies, the maximum amount of fee loan that a student may borrow in respect of the academic year to which that student transfers provided that the student qualifies for a fee loan in respect of that year is the lesser of—

- (a) the amount specified in paragraph (2) applicable in the student’s case; and
- (b) the fees payable by the student in connection with that year.

(9) Where a student has applied for a fee loan of less than the maximum amount available in relation to an academic year, that student may apply to borrow an additional amount which when added to the amount already applied for does not exceed the relevant maximum applicable in that student’s case.

(10) If a student's status as an eligible part-time student is transferred from one course to another under regulation 151 and the circumstances in paragraph (11) apply, the student may apply to the Secretary of State to reduce the amount of fee loan borrowed in respect of the remainder of the academic year.

(11) The circumstances are—

- (a) the fees payable in respect of the academic year of the course to which the eligible part-time student transfers are lower than the fees payable in respect of the academic year of the course from which the student is transferring;
- (b) the academic year of the course to which the eligible part-time student transfers does not begin on a later date than the academic year of the course from which the student is transferring.

(12) For the purposes of paragraph (11), the “remainder of the academic year” means the period of the academic year in respect of which the academic authority has not made a request to the Secretary of State for payment of the fee loan or fee loan instalment.

(13) A student may apply to the Secretary of State to reduce the amount of fee loan for which the student has applied in respect of a period of the academic year for which the academic authority has not made a request to the Secretary of State for payment of the fee loan or fee loan instalment under regulation 155.

Assistance with fees in respect of attendance on a course in Wales, Northern Ireland or Scotland

146.—(1) The Secretary of State may pay support to assist with fees to an eligible part-time student in connection with the student's attendance on a designated part-time course beginning before 1st September 2012 in Wales, Northern Ireland or Scotland.

(2) The assistance paid under paragraph (1) must not exceed the lesser of—

- (a) the maximum amount of assistance that would have been payable to the eligible part-time student under regulation 141(1)(a) had the student been undertaking the course in England; and
- (b) the maximum amount of support to assist with fees that in the opinion of the Secretary of State would have been payable according to whether the student attends the designated part-time course in Wales, Northern Ireland or Scotland—
 - (i) pursuant to regulations made by the Welsh Ministers or the National Assembly for Wales under section 22 of the 1998 Act had the student been ordinarily resident in Wales and undertaking the part-time course in Wales;
 - (ii) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998 had the student been ordinarily resident in Northern Ireland and undertaking the part-time course in Northern Ireland; or
 - (iii) from funds of the Scottish Further and Higher Education Funding Council⁽³⁾ had the student been ordinarily resident in Scotland and undertaking the part-time course in Scotland.

Disabled part-time students' allowance

147.—(1) An eligible part-time student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Secretary of State is satisfied the student is obliged to incur by reason of a disability to which the student is subject in respect of undertaking a designated part-time course.

(3) This body was established under section 1 of the Further and Higher Education (Scotland) Act 2005 (2005 asp 6).

- (2) An eligible part-time student does not qualify for the grant under this regulation—
 - (a) if the only paragraph in Part 2 of Schedule 1 into which the student falls is paragraph 9;
 - (b) unless the Secretary of State considers that the student is undertaking the designated part-time course in the United Kingdom; or
 - (c) subject to paragraph (4), where the student is a prisoner.
- (3) Paragraph (2)(c) does not apply in respect of an academic year during which the student enters prison or is released from prison.
- (4) Where the current part-time course begins on or after 1st September 2012, an eligible part-time student does not qualify for grant under this regulation if the intensity of study during the academic year for which support is claimed is less than 25%.
- (5) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Secretary of State considers appropriate in accordance with the student's circumstances.
- (6) The amount of the grant under this regulation must not exceed—
 - (a) £15,390 in respect of an academic year for expenditure on a non-medical personal helper;
 - (b) £5,161 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
 - (c) the additional expenditure incurred—
 - (i) within the United Kingdom for the purpose of attending the institution;
 - (ii) within or outside the United Kingdom for the purpose of attending, as a part of the course, any period of study at an overseas institution or for the purpose of attending the Institute;
 - (d) £1,293 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

Applications for support

148.—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated part-time course by completing and submitting to the Secretary of State an application in such form as the Secretary of State may require.

- (2) The application must be accompanied by—
 - (a) a declaration under regulation 149 completed by the academic authority where the current part-time course began before 1st September 2012; and
 - (b) such additional documentation as the Secretary of State may require.
- (3) The Secretary of State may take such steps and make such inquiries as the Secretary of State considers necessary to determine whether the applicant is an eligible part-time student, whether the applicant qualifies for support and the amount of support payable, if any.
- (4) The Secretary of State must notify the applicant of whether the applicant qualifies for support and, if the applicant does qualify, the amount of support payable in respect of the academic year, if any.
- (5) The general rule is that the application must reach the Secretary of State no later than the end of the ninth month of the academic year in respect of which it is submitted.
- (6) The general rule does not apply where—
 - (a) one of the events listed in paragraph (3) of regulation 138 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the

application must reach the Secretary of State within a period of nine months beginning with the day on which the relevant event occurred;

- (b) the applicant is applying for the disabled part-time students' allowance, in which case the application must reach the Secretary of State as soon as is reasonably practicable; or
- (c) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as the Secretary of State specifies;
- (d) the applicant is applying to borrow an additional amount of fee loan, in which case the application must reach the Secretary of State not later than one month before the end of the academic year to which the application relates.

Declarations provided by academic authorities

149.—(1) Subject to paragraph (2), the academic authority must complete a declaration in such form as may be required by the Secretary of State.

(2) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(3) Where the course began before 1st September 2012, the academic authority must complete the declaration at the request of the applicant to accompany the application for support.

(4) In this Part, “declaration” in respect of a course starting before 1st September 2012 means—

- (a) where the applicant is applying for support in connection with the designated part-time course for the first time, a statement that—
 - (i) provides the course information; and
 - (ii) confirms that the applicant has undertaken at least two weeks of the designated part-time course;
- (b) in any other case, a statement that—
 - (i) provides the course information; and
 - (ii) confirms that the applicant has enrolled to undertake the academic year of the designated part-time course in respect of which the applicant is applying for support and has undertaken at least two weeks of the course

(5) In this Part, “declaration” in respect of a course starting on or after 1st September 2012 means a statement that—

- (i) provides the course information; and
- (ii) confirms that the applicant has enrolled to undertake the academic year of the designated part-time course in respect of which the applicant is applying for support.

(6) In this regulation, “course information” means—

- (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
- (b) subject to paragraph (7), the intensity of study;
- (c) certification by the academic authority that it considers—
 - (i) the course to be a designated part-time course;
 - (ii) that it will be possible for the applicant to complete the course within the period specified in regulation 139(1)(c).

(7) Where a course begins on or after 1st September 2012, the “intensity of study” in paragraph (6) (b) means confirmation by the academic authority that the intensity of study during the academic year for which support is claimed is not less than 25%.

- (8) For the purposes of paragraph (6)(c)(ii), the academic authority must have regard to—
- (a) any increase in intensity of study that would be required for the applicant to complete the course within the period specified in regulation 139(1)(c);
 - (b) any parts of the course which the applicant has been required to repeat.

Information

150. Schedule 3 deals with the provision of information.

Transfer of status

151.—(1) Where an eligible part-time student transfers to another part-time course, the Secretary of State must transfer the student's status as an eligible part-time student to that course where—

- (a) he receives a request from the eligible part-time student to do so;
 - (b) he is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
 - (c) the period of eligibility has not terminated.
- (2) The grounds for transfer are—
- (a) the eligible part-time student starts to undertake another designated part-time course at the institution;
 - (b) the eligible part-time student starts to undertake a designated part-time course at another institution; or
 - (c) after beginning a designated part-time course for a first degree (other than an honours degree) the eligible part-time student is, before the completion of that course, admitted to a designated part-time course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible part-time student who transfers under paragraph (1) from a part-time course beginning before 1st September 2012 is entitled to receive in connection with the academic year of the course to which the student transfers the remainder of the support for which the Secretary of State has determined the student qualifies in respect of the academic year of the course from which the student transfers.

(4) The Secretary of State may re-assess the amount of support payable after the transfer.

(5) An eligible student who transfers under paragraph (1) after the Secretary of State has determined the student's support in connection with the academic year of the course from which the student is transferring but before the student completes that year may not apply for another grant—

- (a) under regulation 141(1)(b) where the student is transferring from a course beginning before 1st September 2012; or
- (b) under regulation 147

in connection with the academic year of the course to which the student transfers.

(6) Where a student transfers under paragraph (1) from a part-time course beginning before 1st September 2012, the maximum amount of assistance under regulation 141(1)(a) in respect of the academic years to and from which the student transfers is the amount of assistance with fees available in connection with the course which has the highest intensity of study.

Conversion of status

152.—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated part-time course at the same or at another institution, the Secretary of State must convert

the student's status as an eligible student to that of an eligible part-time student in connection with the course to which the student is transferring where—

- (a) he receives a request from the eligible student to do so; and
- (b) the period of eligibility has not terminated.

(2) Where, before completing the designated course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is to be treated as satisfying regulation 139(1)(b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed—

- (a) twice the period ordinarily required to complete the remainder of the designated course from which the student transfers, where the student transfers before 1st September 2012; or
- (b) four times the period ordinarily required to complete the remainder of the designated course from which the student transfers, where the student transfers on or after 1st September 2012.

(3) The following applies to a student ("A") who transfers under paragraph (1)—

- (a) where the Secretary of State has determined to pay an amount of disabled students' allowance to A under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which A becomes an eligible part-time student;
- (b) the maximum amount of disabled part-time students' allowance to which A would, apart from this regulation, be entitled in connection with A undertaking a designated part-time course in respect of that academic year is reduced by one third where A became an eligible part-time student during the second quarter of the academic year and by two thirds where A became such a student in a later quarter of that year;
- (c) where an amount of disabled students' allowance for any purpose has been paid to A under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled part-time students' allowance payable for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to A for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and
- (d) where immediately before A became an eligible part-time student A was eligible to apply, but had not applied, for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum to which A was entitled, A may apply for such a loan or such additional amount of loan as if A had continued to be an eligible student; and in the circumstances mentioned in paragraph (4) the maximum or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

(4) Where the request 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) is reduced by two thirds, and where the request is made during the second quarter of that year that amount is reduced by one third.

(5) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated part-time course at the same or at another institution, the Secretary of State must convert the student's status as an eligible distance learning student to that of an eligible part-time student in connection with the course to which the student is transferring where—

- (a) he receives a request from the eligible distance learning student to do so; and
- (b) the period of eligibility has not terminated.

(6) Where, before completing the designated distance learning course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is to be treated as satisfying regulation 139(1)(b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed—

- (a) twice the period ordinarily required to complete the remainder of the designated distance learning course from which the student transfers, where the student transfers before 1st September 2012; or
- (b) four times the period ordinarily required to complete the remainder of the designated distance learning course from which the student transfers, where the student transfers on or after 1st September 2012.

(7) Subject to paragraph (9), a student who transfers to a part-time course under paragraph (5) before 1st September 2012 is entitled to receive in connection with the academic year of the course to which the student transfers the remainder of the support for which the Secretary of State has determined the student qualifies under Part 10 in respect of the academic year of the designated distance learning course from which the student transfers.

(8) Subject to paragraph (9), a student who transfers to a part-time course under paragraph (5) on or after 1 September 2012 is entitled to receive in connection with the academic year of the course to which the student transfers the remainder of the support for which the Secretary of State has determined the student qualifies under regulation 147 in respect of the academic year of the designated distance learning course from which the student transfers.

(9) The Secretary of State may re-assess the amount of support payable after the transfer.

(10) An eligible student who transfers under paragraph (5) after the Secretary of State has determined the student's support in connection with the academic year of the distance learning course from which the student is transferring but before the student completes that year—

- (a) may not apply for a grant under regulation 141(1)(b) if the student has already applied for a grant under regulation 124(1)(b) where the student transfers to the part-time course before 1st September 2012;
- (b) may not apply for a grant under regulation 147 if the student has already applied for a grant under regulation 127.

(11) Where a student transfers under paragraph (5) to a part-time course before 1st September 2012, the total amount of assistance paid to the student under regulations 124(1)(a) and 141(1)(a) in respect of—

- (a) the academic year from which the student transfers; and
- (b) the academic year to which the student transfers;

must not exceed the amount of support determined to be payable to the student under regulation 124(1)(a).

(12) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated course at the same or at another institution, the Secretary of State must convert that student's status as an eligible part-time student to that of an eligible student in connection with the course to which the student is transferring where—

- (a) he receives a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not terminated.

(13) The following applies to a student who transfers under paragraph (12)—

- (a) where the Secretary of State has determined to pay an amount of disabled part-time students' allowance to the student in periodic instalments no payment in respect of that

amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;

- (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which the student may be entitled in respect of that year under Parts 4 to 6;
- (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where the student became such a student in a later quarter of that year; and
- (d) where an amount of disabled part-time students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable to the student under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled part-time students' allowance paid to the student for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

(14) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated distance learning course at the same or at another institution, the Secretary of State must convert that student's status as an eligible part-time student to that of an eligible distance learning student in connection with the course to which the student is transferring where—

- (a) he receives a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not terminated.

(15) Subject to paragraph (16), a student who transfers under paragraph (14) is entitled to receive in connection with the academic year of the course to which the student transfers the remainder of the support for which the Secretary of State has determined the student qualifies under this Part in respect of the academic year of the designated part-time course from which the student transfers.

(16) The Secretary of State may re-assess the amount of support payable after the transfer.

(17) An eligible student who transfers under paragraph (14) after the Secretary of State has determined the student's support in connection with the academic year of the part-time course from which the student is transferring but before the student completes that year—

- (a) may not apply for a grant under regulation 124(1)(b) if the student has already applied for a grant under regulation 141(1)(b);
- (b) may not apply for a grant under regulation 127 if the student has already applied for a grant under regulation 147.

(18) Where a student transfers under paragraph (14), the total amount of assistance paid to the student under regulations 124(1)(a) and 141(1)(a) in respect of—

- (a) the academic year from which the student transfers; and
- (b) the academic year to which the student transfers;

must not exceed the maximum amount of support determined to be payable to the student under regulation 124(1)(a).

Payment of grants for books, travel and other expenditure and disabled part-time students' allowances

153.—(1) Payments of the grant for books, travel and other expenditure and the disabled part-time students' allowance may be made in such manner as the Secretary of State considers appropriate and the Secretary of State may make it a condition of entitlement to payment that the eligible part-time

student must provide the Secretary of State with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Secretary of State cannot make a final assessment on the basis of the information provided by the student, the Secretary of State may make a provisional assessment and payment of the grant for books, travel and other expenditure and the disabled part-time students' allowance.

(3) The Secretary of State may pay the grant for books, travel and other expenditure and the disabled part-time students' allowance in instalments.

(4) Subject to paragraph (5), the Secretary of State may pay the grant for books, travel and other expenditure and the disabled part-time students' allowance at such times as the Secretary of State considers appropriate.

(5) The Secretary of State must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the disabled part-time students' allowance before the Secretary of State has received a declaration under regulation 149 unless an exception applies.

(6) An exception applies if—

- (a) a disabled part-time students' allowance is payable in which case that particular grant may be paid before the Secretary of State has received a declaration;
- (b) the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

Payment of grants for fees

154.—(1) Subject to paragraphs (2) and (3), the Secretary of State must pay the grant in respect of fees for which the student qualifies to the appropriate academic authority after 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 the Secretary of State sees fit.

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

Payment of loans for fees

155.—(1) The Secretary of State must pay the fee loan for which an eligible part-time student qualifies to an institution to which the student is liable to make payment.

(2) The Secretary of State may pay the fee loan in instalments.

(3) The Secretary of State must not pay the fee loan or first instalment of the fee loan before the Secretary of State has received from the academic authority—

- (a) a request for payment; and
- (b) a declaration under regulation 149.

(4) The academic authority must inform the Secretary of State when a student ceases to attend or undertake the designated part-time course during the academic year.

(5) No payment of fee loan or instalment of fee loan can be made in respect of a designated part time course once the academic authority has informed the Secretary of State that the student has ceased to attend or undertake the course during the academic year.

Overpayments of grants and allowances

156.—(1) Any overpayment of a grant in respect of fees is recoverable by the Secretary of State from the academic authority.

(2) An eligible part-time student must, if so required by the Secretary of State, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which the student is entitled under this Part.

(3) The Secretary of State must recover an overpayment of grant for books, travel and other expenditure and disabled part-time students' allowance unless the Secretary of State considers that it is not appropriate to do so.

(4) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
- (b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(5) A payment of the disabled part-time students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(6) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the disabled part-time students' allowance unless the Secretary of State decides otherwise.

(8) The circumstances are—

- (a) the Secretary of State applies all or part of the disabled part-time students' allowance to the purchase of specialist equipment on behalf of the eligible part-time student;
- (b) the student's period of eligibility terminates after the relevant date; and
- (c) the equipment has not been delivered to the student before the period of eligibility terminated.

(9) The circumstances are—

- (a) the eligible part-time student's period of eligibility terminates after the relevant date; and
- (b) a payment of the disabled part-time students' allowance in respect of specialist equipment is made to the student after the period of eligibility terminated.

(10) Where there is an overpayment of the disabled part-time students' allowance, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if the Secretary of State considers it is appropriate to do so.

Overpayments of fee support

157.—(1) Any overpayment of fee support is recoverable by the Secretary of State from—

- (a) the academic authority; or
- (b) the student in respect of whom the payment of fee support was made.

(2) An overpayment of a fee loan may be recovered from a student under paragraph (1)(b) in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from any amount of the fee loan which remains to be paid;

- (b) by requiring the student to repay the fee loan in accordance with regulations made under section 22 of the 1998 Act;
- (c) by taking such other action for the recovery of an overpayment as is available to the Secretary of State.