
STATUTORY INSTRUMENTS

1998 No. 1166

The Education (Mandatory Awards) Regulations 1998

PART II
AWARDS

Duty to bestow an award

7. In pursuance of section 1(1) of the Education Act 1962 it shall be the duty of an authority, subject to the conditions and exceptions hereinafter provided, to bestow—

- (a) a full award in respect of a person's attendance at a designated course within the meaning of these Regulations during an academic year beginning after 31st August 1998 if—
 - (i) the person concerned is ordinarily resident in the authority's area within the meaning of section 1 of the said Act of 1962 and Schedule 1 thereto, read with these Regulations, and
 - (ii) **the duty is not owed to the person only because he is a European student;**
- (b) where paragraph (a) does not apply, a fees only award in respect of a person's attendance at a designated course at an institution in England or Wales during an academic year beginning after the 31st August 1998 if the person is a European student and the institution at which he attends his course is within the area of the authority.

Modification of provisions for determining ordinary residence

8.—(1) This regulation shall have effect for modifying paragraph 2 of Schedule 1 to the Education Act 1962.

(2) A person who, apart from this regulation, would be treated by virtue of that paragraph as having been ordinarily resident in the area of more than one authority within the period of 12 months ending with the date of the beginning of the course shall be treated as being ordinarily resident in the area of the authority in which he was so resident on the last day of the month of October, February, April, or June (according as the academic year of the course begins in the winter, the spring, the summer or the autumn respectively) preceding the beginning of the course.

(3) A person who, apart from this regulation, would be treated by virtue of that paragraph as being ordinarily resident in the area of the authority in which he attends his course as a result of having moved from Scotland, Northern Ireland, the Channel Islands or the Isle of Man to become ordinarily resident in the area of an authority for the purpose of attending his current course or such previous course as is mentioned in regulation 8 of the Education (Areas to which Pupils and Students Belong) Regulations 1996(1) shall be treated as being ordinarily resident in the place from which he has moved.

No area students

9. A person who, apart from this regulation, would by virtue of paragraph 2 of Schedule 1 to the Education Act 1962 fall to be treated for the purposes of section 1 of that Act as not being ordinarily resident in the area of any authority shall be treated for the purposes of that section as ordinarily resident in the area of the authority in which the institution providing his course is situated.

Designated courses

10.—(1) The following courses are hereby designated—

- (a) a first degree course, that is to say—
 - (i) a course provided by a publicly funded institution for a first degree or for the degree of Bachelor of Medicine or an equivalent degree;
 - (ii) a course provided by the University of Buckingham for a first degree of that university;
 - (iii) an international course, that is to say a course provided by a publicly funded institution in conjunction with an overseas institution for a first degree;
 - (iv) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for a first degree or for the degree of Bachelor of Medicine or an equivalent degree, which is for the time being designated for the purposes of this provision by the Secretary of State;
- (b) a Dip HE course, that is to say—
 - (i) a course provided by a publicly funded institution for the Diploma of Higher Education;
 - (ii) a course provided by a publicly funded institution for the Diploma of Higher Education or a first degree as the student may elect after the commencement of the course;
 - (iii) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Diploma of Higher Education which is for the time being designated for the purposes of this provision by the Secretary of State;
- (c) an HND course, that is to say—
 - (i) a course provided by a publicly funded institution for the Higher National Diploma or the Higher National Diploma of the Business & Technology Education Council;
 - (ii) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Higher National Diploma or the Higher National Diploma of the Business & Technology Education Council, which is for the time being designated for the purposes of this provision by the Secretary of State;
- (d) a course of initial training for teachers, that is to say—
 - (i) a full-time course for the initial training of teachers (other than a course for the degree of Bachelor of Education) provided by a publicly funded institution, or, where a private institution is an eligible institution as defined by section 4(2) of the Education Act 1994⁽²⁾, by a public institution in conjunction with such a private institution, or by such a private institution;
 - (ii) a part-time course of teacher training, involving not less than 3 days' attendance for the purposes of study or teaching practice during each of at least 30 weeks

(2) 1994 c. 30.

during each year of the course, for the time being designated for the purposes of this provision by the Secretary of State;

(iii) any other course of teacher training, whether full-time, part-time or partly full-time and partly part-time, for the time being so designated;

(e) a course comparable to a first degree course, that is to say—

(i) a course of at least 3 academic years' duration provided by a university or universities for a certificate, diploma or other academic award; or

(ii) a course for the time being designated for the purposes of this provision by the Secretary of State.

(2) In this regulation a reference to a publicly funded institution is a reference to an institution or institutions which are maintained or assisted by recurrent grants out of public funds, and a reference to a private institution is a reference to an institution or institutions which are not so maintained or assisted.

(3) For the purposes of paragraph (1)(d) a full-time course is a course involving not less than 30 weeks' full-time attendance for the purposes of study or teaching practice during each year of the course, a part-time course is a course involving periods of attendance for those purposes all of which are part-time, and a partly full-time and partly part-time course is any other course.

(4) In paragraphs (1)(d)(ii) and (3) in relation to a course provided at the University of Oxford or Cambridge a reference to a period of 30 weeks shall have effect as a reference to a period of 25 weeks.

Conditions

11.—(1) Subject to paragraph (2), the duty of an authority to bestow an award shall be subject to the conditions that—

(a) an application in writing reaches the authority not later than four months after the date of the beginning of the course; and

(b) the applicant gives the authority a written undertaking that, where any provisional or other payments made in pursuance of the award in respect of a year exceed (for whatever reason) the grant payable in respect of that year, he will, if called upon to do so, repay the excess amount.

(2) For the purposes of paragraph (1)(a), an application shall be treated as having reached the authority as there mentioned—

(a) where, to the knowledge of the authority, an application has so reached some other authority;

(b) where, not later than four months after the date of the beginning of the course, it has not become a designated course and the application reaches the authority not later than four months after the date on which it becomes a designated course;

(c) in the case of a person who becomes a European student as a result of the accession of the State of which he is a national to the European Community, where the application reaches the authority not later than four months after the date of the accession;

(d) in the case of a refugee, or the spouse or child of a refugee, where the application reaches the authority not later than four months after the date on which the refugee was recognized as a refugee; or

(e) where, having regard to the circumstances of the particular case, the authority consider that it should be so treated.

(3) If the applicant is a minor, paragraph (1)(b) shall have effect, with the necessary modifications, as if the references to the applicant were references to the applicant or his parent.

Exceptions relating to attendance at previous courses

12.—(1) An authority shall not bestow an award on a person in respect of his attendance at a course if it is their duty under regulation 14 to transfer an award already bestowed on him so that it is held in respect of his attendance at that course.

(2) Subject to paragraphs (4), (5) and (7) an authority shall not be under a duty to bestow an award on any person where he has previously attended—

- (a) a course designated under regulation 10(1)(a); or
- (b) one or more courses of higher education the aggregate duration of which exceeds two academic years (a part-time course being treated as its full-time equivalent).

(3) An authority shall not be under a duty to bestow an award on any person in respect of his attendance at any course designated by or under regulation 10(1)(b) or (c) if he has previously attended any other course designated by or under regulation 10(1).

(4) A previous course shall be disregarded for the purposes of paragraph (2) if it was provided by a college providing long term residential courses of full-time education for adults which is specified in regulation 7 of the State Awards Regulations 1978(3).

(5) Nothing in paragraph (2) shall affect the duty of an authority to bestow an award on a person in respect of his attendance at—

- (a) a postgraduate course for the initial training of teachers unless he has—
 - (i) previously attended such a course, or
 - (ii) successfully completed a course for the degree of Bachelor of Education (or a comparable first degree or award of an institution or the Council for National Academic Awards) which is referred to in paragraph (6);
- (b) a course for the degree of Bachelor of Education (or a comparable first degree or academic award of an institution or the Council for National Academic Awards) the duration of which does not exceed two years and which is referred to in paragraph (6) unless he has previously attended—
 - (i) such a course, whether or not its duration exceeded two years, or
 - (ii) a postgraduate course for the initial training of teachers;
- (c) a full-time course of initial training as a teacher of one year's duration, or a comparable part-time course, not within sub-paragraphs (a) or (b), unless he has for more than three years held a statutory award in respect of his attendance at a full-time course of higher education or a comparable course outside England and Wales.

(6) A course is referred to in this paragraph if the successful completion of it resulted or results in the person completing it being a qualified teacher within the meaning of section 218(2)(a) of the Education Reform Act 1988(4).

(7) Nothing in paragraph (2) shall affect the duty of an authority to bestow an award on a person who—

- (a) attends a course having previously attended a designated course in respect of which he received payments of the kind described in regulation 23(3) in pursuance of section 63 of the Health Services and Public Health Act 1968(5) in respect of the courses referred to therein; and

(3) S.I. 1978/1096, to which there are amendments not relevant to these Regulations.

(4) 1988 (c. 40).

(5) 1968 c. 46; section 63 was amended by the National Health Service Reorganisation Act 1973 (c. 32), section 57, Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), section 129, Schedule 15, paragraph 45 and Schedule 16, the National Health Service (Scotland) Act 1978 (c. 29), section 109, Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1, 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), section 102(2) and Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order

(b) has not attended any other course of higher education;

provided that the requirements of regulation 14(1)(a) or (b) ... are satisfied, the payments referred to in sub-paragraph (a) above being treated as an award bestowed in respect of a course.

(8) In this regulation any reference to the duration of a course is a reference to the period ordinarily required for its completion by a student who is not excused part of the course on account of his having attended a previous course, in the case of a sandwich course ignoring any periods of experience.

(9) For the purposes of this regulation a person shall not be treated as having previously attended a course by reason only of his having attended from its beginning the course to which his application for an award relates.

(10) For the purposes of this regulation a person shall only be treated as having attended a course if he has both attended and held a statutory award in respect of either more than one course or one course for a period longer than twenty weeks; and it is hereby declared that any reference to a person having attended a course shall be construed as a reference to his having done so before or after the coming into force of these Regulations.

(11) For the purposes of this regulation where an award has been transferred under regulation 14 the student on whom the award has been bestowed shall be treated as having attended only the new course, and the duration of that course shall be treated as the aggregate of the period spent following the previous course and the period which the student in question would ordinarily require for the completion of the new course, in the case of either course being a sandwich course ignoring any periods of experience.

Other exceptions

13.—(1) An authority shall not be under a duty to bestow an award in respect of a person's attendance at a course if—

- (a) he has not been ordinarily resident, throughout the three years preceding the first year of the course in question, in the British Islands or, in the case of such a person as is mentioned in paragraph (3), who has not been so resident in the European Economic Area; or
- (b) his residence in the British Islands or, in the case of such a person as is mentioned in paragraph (3), in the European Economic Area, has during any part of the period referred to in sub-paragraph (a) been wholly or mainly for the purposes of receiving full-time education; or
- (c) he is not settled in the United Kingdom within the meaning of the Immigration Act 1971(6) at the beginning of the first year of the course in question, unless he is such a person as is mentioned in paragraph (3); or
- (d) he has, in the opinion of the authority, shown himself by his conduct to be unfitted to receive an award.

(2) Paragraph (1)(a) to (c) shall not apply in the case of a refugee, ordinarily resident in the British Islands, who has not ceased to be so ordinarily resident since he was recognized as a refugee, or in the case of the spouse or child of such a refugee, and paragraph (1)(c) shall not apply in the case of a person who—

- (a) has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom,

1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, the Local Government (Scotland) Act 1994 (c. 39), section 180(1), Schedule 13, paragraph 74(1) and (2), and the Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 95(2).

(6) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4, by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

- (b) has been granted leave to enter or remain accordingly, and
 - (c) has been ordinarily resident in the British Islands throughout the period since he was granted leave to enter or remain
- or in the case of the spouse or child of such a person.

(3) The person referred to in paragraph (1)(a) to (c) is—

- (a) a European student,
- (b) an EEA migrant worker who is entitled to the payment of an award by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement(7), or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3);
- (c) the spouse of an EEA migrant worker who is installed in the United Kingdom with his spouse, or
- (d) the child of an EEA migrant worker who is entitled to the payment of an award by virtue of Article 12 of the above mentioned Council Regulation, or where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12.

(4) In paragraph (3), “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.

(5) An authority shall not be under a duty to bestow a transitional award in respect of a person’s attendance at a course if it is satisfied that no amount would be payable in pursuance of the award if it were bestowed.

Transfer of awards

14.—(1) An award shall be transferred by the authority at the request of a student so as to be held in respect of attendance at a course other than that in respect of which it is held in any case where—

- (a) on the recommendation of the academic authority the student commences to attend another course at the institution;
- (b) with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the student commences to attend a course at another institution;
- (c) after commencing a course for the Certificate in Education, the student is, on or before the completion of that course, admitted to a course for the degree of Bachelor of Education;
- (d) after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the student is, on or before the completion of that course, admitted to a course for the honours degree of Bachelor of Education; or
- (e) after commencing a course for a first degree (other than an honours degree) the student is, before the completion of that course, admitted to a course for an honours degree in the same subject or subjects at the institution.

(2) An authority may, after consulting the academic authority concerned, refuse the transfer of an award in pursuance of paragraph (1)(a) or (b) if they are satisfied that when the student applied for it he did not intend to complete the course to which his application related.

(3) For the purposes of the duty of an authority to transfer an award in pursuance of paragraph (1) (c) or (d) it shall be immaterial whether or not the two courses are provided by the same institution.

(7) OJ No. L257, 19.10.68, p.2 (OJ/SE 1968 (II) p.457).

Termination of awards

15.—(1) An award shall terminate on the expiry of the period ordinarily required for the completion of the course:

Provided that—

- (a) if the academic authority refuse to allow the student to complete the course, the authority shall terminate the award forthwith;
- (b) if the student does not complete the course within the period ordinarily required, the authority—
 - (i) may extend the award until the student has completed the course, and
 - (ii) shall extend it for a period equivalent to any period in respect of which they have made any payment under regulation 25(1).

(2) The authority may, after consultation with the academic authority, terminate the award if they are satisfied that the student has either—

- (a) abandoned the course in respect of which it is held and the award does not fall to be transferred in pursuance of regulation 14; or
- (b) shown himself by his conduct to be unfitted to hold the award.

Supplementary provisions

16. The authority may require the student to provide from time to time such information as they consider necessary for the exercise of their functions under this Part, and if in the case of any student the authority are satisfied that he has wilfully failed to comply with any such requirement or has provided information which he knows to be false in a material particular or has recklessly provided information which is false in a material particular, they may terminate the award or withhold any payments due under it as they see fit.