
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 265

Students Awards Regulations (Northern Ireland) 2002

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Students Awards Regulations (Northern Ireland) 2002 and shall come into operation on 1st September 2002.

Interpretation

2.—(1) In these Regulations –

“academic authority” in relation to an institution means the governing body or other body having the functions of a governing body and includes a person acting with the authority of that governing body or other body;

“area” means the area of a board;

“award” includes either a fees only award or a full award made under these Regulations and any award made under previous Regulations which is an old award;

“British Islands” means the United Kingdom, the Channel Islands, and the Isle of Man;

“Certificate in Education” includes a Teacher’s Certificate;

“the Council Regulations” means Council Regulations (EEC) No. 1612/68 on freedom of movement for workers within the Community as extended by the EEA Agreement⁽¹⁾;

“course comparable to a first degree course” means –

- (a) a course of at least 3 academic years' duration provided by a university or universities for a certificate, diploma or other academic award;
- (b) an educational facility designated by the Department under Article 50(1);

“course for the DipHE” means a course provided by –

- (a) a publicly funded institution for the Diploma of Higher Education;
- (b) 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;
- (c) 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 Department;

“course for the HND” means –

(1) O.J. No. L257, 19.10.68, p. 2. (O.J./S.E. 1968 (II) p. 475)

- (i) a course provided by a publicly funded institution for the Higher National Diploma or the Higher National Diploma of the Business and Technology Education Council (“BTEC”);
- (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 and Technology Education Council, which is for the time being designated for the purposes of this provision by the Department;

“course of higher education” means a course of a type listed in Schedule 1 to the Further Education (Northern Ireland) Order 1997(2) for the purposes of paragraph 2(d) of Schedule 1, includes a full-time course outside Northern Ireland which is comparable to a full-time course of higher education in Northern Ireland;

“course of initial teacher training” means –

- (a) 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(3) by a public institution in conjunction with such a private institution, or by such a private institution;
- (b) 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 during each year of the course, for the time being specified for the purposes of this provision by the Department;
- (c) any other course of teacher training, whether full-time, part-time or partly full-time and partly part-time, for the time being so specified; and

for the purposes of paragraphs (a) to (c) 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; and in this definition 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;

“degree” means a degree awarded by a university, institution of higher education in the United Kingdom or the Republic of Ireland or the Council for National Academic Awards;

“dependent” means wholly or mainly financially dependent;

“discretionary award” shall be construed in accordance with regulation 2(5);

“employment” means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding for gain of any office and to the following for gain of any occupation;

“establishment of further education” excludes a university but includes a college of education and an institution of further education which also provides higher education;

“European Community” means the area comprised by the member States of the European Community (including the United Kingdom) as constituted from time to time;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(4) as adjusted by the Protocol signed at Brussels on 17th March 1993(5).

(2) S.I.1997/1772 (N.I. 15)

(3) 1994 c. 30

(4) Cmnd. 2073

(5) Cmnd. 2183

“EEA migrant worker” means a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom under the Council Regulation or in circumstances where as a national of the United Kingdom he has 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 the Council Regulation;

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein; provided that any area which was previously not part of the European Economic Area, but at any time before or after these Regulations came into operation becomes part of that area shall be considered to have always been part of the European Economic Area;

“European student” means a person who is a national of a member State of the European Community or the child of such a national who has not been ordinarily resident in the British Islands as described in regulation 6(1) and (2) or who is not settled in the United Kingdom as described in paragraph 2(a) of Schedule 1;

“fees only award” means an award made only in respect of fees described in Schedule 5;

“first degree course” means –

- (a) a course provided by a publicly funded institution for a first degree or for the degree of Bachelor of Medicine or an equivalent degree;
- (b) a course provided by the University of Buckingham for a first degree of that university;
- (c) an international course;
- (d) 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 Department;

“full award” means an award made in respect of both fees described in Schedule 5 and a maintenance grant;

“high-cost country means Japan and Switzerland;

“independent student” means a student who –

- (a) has attained the age of 25 before the beginning of the year for which payments in pursuance of his award fall to be made; or
- (b) has supported himself out of his earnings for periods (including any period mentioned in paragraph (3)), before the first year of his course aggregating not less than 3 years; or
- (c) has been married before the beginning of the year for which payments in pursuance of his award fall to be made whether or not the marriage is still subsisting; or
- (d) has no parent living; or
- (e) is irreconcilably estranged from his parents;

“institution” means an educational institution in the United Kingdom providing further or higher education or both, or providing a course which qualifies for funding under Part I of the Education Act 1994 or a university or relevant institution of higher education in the Republic of Ireland providing a full-time course comparable to one listed in paragraph 1, 2, 3 or 4 of Schedule 2;

“international course” means a course provided by a publicly funded institution in conjunction with an overseas institution for a first degree;

“maintenance grant” means a grant calculated in accordance with regulation 12;

“Metropolitan Police District” means the areas referred to in section 76(1) of the London Government Act 1963(6) as it had effect prior to its amendment by section 323 of the Greater London Authority Act 1999(7);

“old award” means an award made under previous Awards Regulations which is an old award within the meaning of the Students Awards Regulations (Northern Ireland) 1998(8);

“ordinary maintenance requirement” shall be construed in accordance with paragraph 1(1) of Schedule 6;

“overseas institution” means an educational institution outside the United Kingdom providing further or higher education or both;

“periods of experience”, “prescribed proportion” and “sandwich year” in relation to a sandwich course have the meanings respectively assigned to them by paragraph 1 of Schedule 9;

“previous awards regulations” means the Regulations revoked by regulation 18 and any regulations superseded by those Regulations;

“private institution” means an institution or institutions which are not maintained or assisted by recurrent grants out of public funds;

“publicly funded institution” means an institution or institutions which are maintained or assisted by recurrent grants out of public funds;

“refugee” means a person recognised by Her Majesty’s Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(9) as extended by the Protocol thereto which entered into force on 4th October 1967(10) and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

“relevant day” means the last day of the month of October, February, April or June (as the case may be according to whether the academic year of the course begins in the winter, spring, summer or autumn) preceding the beginning of the course;

“relevant institution of higher education in the Republic of Ireland” means an institution listed in Part II of Schedule 4;

“specified course” means a course of a type listed in Schedule 2; and in relation to any person any reference (otherwise unqualified) to a specified course shall, as the context requires, be construed as a reference to a specified course which the person attends or has applied to attend and any reference to a specified course shall be construed as a reference to either a course of full-time study or a sandwich course;

“statutory award” means any award made or grant paid by virtue of Article 50 (except a maintenance allowance payable under the Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1996(11)) or Article 51 and includes any comparable award made or grant or other payment made in respect of attendance at a course which is paid out of monies provided by or under any statutory provision;

“student” means a person to whom an award has been made under these Regulations or previous awards regulations;

“supplementary requirement” shall be construed in accordance with paragraph 4 of Schedule 6;

“the excess period” shall be construed in accordance with paragraph 5(1) of Schedule 6;

(6) 1963 c. 33 Section 76 was amended by the Local Authorities etc (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), Article 11

(7) 1999 c. 29

(8) S.R. 1998 No. 273

(9) Cmnd. 9171

(10) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Student Support Branch, Department for Employment and Learning).

(11) S.R. 1996 No. 578

“the Income Tax Acts” has the same meaning as in Schedule 1 to the Interpretation Act 1978(12);

“the Order” means the Education and Libraries (Northern Ireland) Order 1986 and a reference by number to an Article is a reference to the Article bearing that number in the Order;

“the Tax Acts” has the same meaning as in Schedule 1 to the Interpretation Act 1978;

“university” means a university in the United Kingdom or the Republic of Ireland and includes a university college and a constituent college, school or hall of such a university;

“year”, in respect of a course, means the period of 12 months beginning on 1st January, 1st April, 1st July or 1st September (as the case may be according to whether the academic year of the course begins in the winter, spring, summer or autumn); and any reference to the first or the final year of a course shall be construed accordingly.

(2) In paragraph (1) “parent” shall have the same meaning as in Part II of Schedule 7.

(3) A period during which a student has supported himself out of his earnings includes any period during which –

- (a) he was participating in arrangements for training for the unemployed under any scheme operated, sponsored or funded by any state authority or agency, national, regional or local;
- (b) he was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;
- (c) he was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) and (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit; or
- (d) he held a postgraduate studentship or comparable award; or
- (e) he received any pension, allowance or other benefit paid by reason of a disability to which the student is subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer, or by any other person; or
- (f) he could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was dependent upon him.

(4) For the purposes of these Regulations, a student shall be treated as irreconcilably estranged from his parents if, but not only if, he has not communicated with either one of them for the period of one year before the beginning of the year for which payments in pursuance of his award fall to be made.

(5) For the purpose of these Regulations, a course, the standard of which is not higher than a first degree course which leads to a qualification as a medical doctor, a dentist, a veterinary doctor, an architect, a landscape designer, a landscape manager, a town planner or a town and country planner shall be considered to be a single course for a first degree or for an equivalent qualification notwithstanding that the course may lead to another degree or qualification being conferred before the degree or equivalent qualification, and notwithstanding that part of the course may be optional.

Calculation of income

3. In calculating a person’s income for any year, any reduction for income tax is to be made by calculating the tax payable on the income received in that year as if the year were a year of assessment for the purposes of the relevant tax legislation (the necessary apportionment being made in any case where the relevant provisions of that legislation change during the year).

(12) 1978 c. 30; definition of “Tax Acts” substituted by 1987 c. 16, section 71, Schedule 15, paragraph 12

Termination of marriage

4. A person's marriage is to be treated as having been terminated, not only by the death of the other spouse or the annulment or dissolution of the marriage by an order of a court of competent jurisdiction, but also by virtue of the parties to the marriage ceasing ordinarily to live together, whether or not an order for their separation has been made by any court.

PART II

AWARDS

Specified persons

5.—(1) Persons described in Part I of Schedule 1, with the exception of persons described in Part II of that Schedule, are, subject to the following paragraphs, specified by the Department for the purposes of Article 50(1).

(2) The board which shall be under a duty to make an award to a person entitled to the payment of an award by virtue of Article 7(2), (3) or 12 of the Council Regulation shall be –

- (a) the board in the area of which the person was last resident during the period of 2 years preceding the relevant day;
- (b) if sub-paragraph (a) does not apply, the board in the area of which the institution providing the person's course is situate.

(3) The duty of a board to make an award in pursuance of Article 50(1) which was repealed with transitional and saving provisions on 1st January 1999 by Article 9 of and the Schedule to the Education (Student Support) (Northern Ireland) Order 1998, shall apply only to the extent provided for in Articles 3 and 4 of the Education (Student Support) (Northern Ireland) Order 1998 (Commencement No. 2 and Transitional Provisions) Order 1998, and, accordingly, persons specified by the Department for the purposes of Article 50(1) are only so specified in respect of their attendance at a course which is –

- (a) a first degree course where –
 - (i) the person begins to attend the course immediately after ceasing to attend a DipHE course or an HND course (disregarding any intervening vacation), and
 - (ii) an award made to him in respect of his attendance at the DipHE or HND course was an old award, or where no award was made an award would have been an old award if it had been made;
- (b) subject to paragraphs (4) and (5), a postgraduate course for the initial training of teachers where –
 - (i) the person begins to attend the course immediately after ceasing to attend a first degree course (disregarding any intervening vacation), and
 - (ii) an award made to him in respect of his attendance at the first degree course was an old award, or where no award was made an award would have been an old award if it had been made;
- (c) a course the first year of which began before 1st September 1999.

(4) The Board shall not be under a duty to make a fees only award where the student is attending a flexible postgraduate course for the initial training of teachers, and for the purposes of this regulation "flexible postgraduate course for the initial training of teachers" means a course of initial teacher

training, which has been approved by the Teacher Training Agency⁽¹³⁾, the length and pattern of which is determined by the student's experience and training requirements.

(5) The Board shall not be under a duty to award a maintenance grant where the student is attending a flexible postgraduate course for the initial training of teachers which is of less than one year's duration.

Ordinarily resident

6.—(1) If a board is satisfied that a person was not ordinarily resident in the British Islands, or in the European Economic Area, throughout the 3 years immediately preceding the first year of the specified course or was not resident in a board's area on the relevant day only because that person, his spouse, parent, guardian, any other person having parental responsibility for him, or any person having care of him while he is a child, is, or was, employed temporarily outside the British Islands or, as the case may be, outside the European Economic Area, then, for the purposes of paragraph 1(b) of Schedule 1, that person shall not be regarded as having ceased to be so resident only because of his absence from the British Islands or the European Economic Area or the board's area in consequence of such employment and paragraph (2) shall not apply in the case of such a person. Without prejudice to the foregoing, members of the regular naval, military or air forces of the Crown shall be treated as being temporarily employed within the meaning of this paragraph for any period during which they serve outside the British Islands as members of such forces.

(2) For the purposes of paragraph 1(b) of Schedule 1, a person shall not be regarded as ordinarily resident in the British Islands or the European Economic Area if that person was so resident and had taken up that residence wholly or mainly for the purpose of attending a full-time course of education.

(3) For the purposes of paragraph 1(b) of Schedule 1, a person shall not be regarded as ordinarily resident in the British Islands if that person is personally ineligible for a full award.

(4) For the purposes of regulation 5(1) the ordinary residence requirements of paragraph 1(b) of Schedule 1 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 recognised as a refugee; or in the case of the spouse or child of such a refugee, and paragraph 2(a) of that Schedule 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 as a refugee, it is thought right to allow him to enter or remain in the United Kingdom;
- (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.

(5) The person referred to in paragraph 1(b)(ii) of Schedule 1 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 the Council Regulation, 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) of the Council Regulation;
- (c) the spouse of an EEA migrant worker who is installed in the United Kingdom with his spouse;

(13) The Teacher Training Agency was established under section 1 of the Education Act 1994 (c. 30).

- (d) the child of an EEA migrant worker who is entitled to the payment of an award by virtue of Article 12 of the 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 of the Council Regulation.

(6) In paragraph (5) “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.

Previous attendance at a course

7.—(1) For the purpose of regulation 16(2) and (4) and paragraphs 1(d), 2(c) and (d) and 3 of Schedule 1 –

- (a) a person shall not be regarded as having previously attended a course –
- (i) unless he has previously both attended and held a statutory award in respect of either more than one course or one course for a period longer than 20 weeks;
 - (ii) by reason only of his having attended from its beginning the course to which his application for an award relates;
- (b) any reference to a person having attended a course shall be construed as a reference to his having done so before or after 1st September 2002;
- (c) where an award has been transferred under Schedule 3, the student to whom the award has been made 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.

(2) Nothing in paragraph (1) shall affect the duty of the board to make an award to 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 (3);
- (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 (3) 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-paragraph (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 comparable course outside Northern Ireland.

(3) 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(14) or eligible to be employed as a teacher under Article 70(1)(15).

(14) 1988 c. 40

(15) Article 70 was substituted by S.I. 1987/167 (N.I. 2) Article 8 and amended by S.I. 1993/2810 (N.I. 12) Article 50(2) and Schedule 5

(4) 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.

Specified educational facilities

8. The courses listed in Schedule 2 are specified as educational facilities for the purposes of Article 50(1).

Terms and conditions

9.—(1) Awards to be made by boards shall be subject to the terms and conditions set out in Schedule 3.

(2) Awards to be made by boards shall be either –

(a) a full award in respect of a person’s attendance at a specified course during an academic year beginning after 31st August 2002 –

(i) if the person concerned is ordinarily resident in the board’s area or is a person described in paragraph 1(b)(ii) of Schedule 1; and

(ii) the duty is not owed to the person only because he is a European student;

(b) where sub-paragraph (a) does not apply, a fees only award in respect of a person’s attendance at a specified course at an institution in Northern Ireland during an academic year beginning after 31st August 2002 if the person is a European student.

(3) Where paragraph (2)(a) applies a person shall not be regarded as ordinarily resident in the area of the board as a result of having moved from England, Scotland, Wales, the Channel Islands or the Isle of Man to become ordinarily resident in the area of a board for the purpose of attending his current course or a previous course and shall be treated as being ordinarily resident in the place from which he has moved.

(4) Where paragraph (2)(b) applies the fees only award shall be made by the board in whose area the main facility of the institution is situated.

(5) The reference in paragraph (3) to a previous course is a reference to a course of further education or higher education which, disregarding an intervening vacation, the student was attending immediately before commencing his current course.

PART III

AMOUNTS OF AWARDS

Payments by boards

10.—(1) Subject to regulations 9, 13, 14, 15 and 16 and paragraph 4 of Schedule 3, the board shall in respect of each year pay in pursuance of an award –

(a) in respect of fees, an amount equal to the aggregate of any fees payable in respect of the student as are described in Schedule 5; less –

(i) the amount if any by which the student’s resources exceed his requirements for the purposes of regulation 12(1) (whether or not a maintenance grant is calculated under sub-paragraph (b)), or

(ii) the amount of any income which is not disregarded in the student’s case by virtue of paragraph (1)(b) of Schedule 7,

whichever is the less;

- (b) where the award is a full award, in respect of maintenance a sum calculated in accordance with regulation 11.

(2) The aggregate of any sums paid in respect of maintenance shall be called the “maintenance grant”, and so much of the maintenance grant as appears to the board to be appropriate shall be treated as being in respect of the Easter and Christmas vacations.

(3) Subject to regulations 16 and 17 and paragraph 4 of Schedule 3, a board may, in respect of a student who resides in an institution other than a university, pay the amount charged by the institution for his board and lodging.

Calculation of maintenance grant

11.—(1) Subject to paragraph (2) the sum mentioned in regulation 10(1)(b), shall be the amount by which the student’s resources fall short of his requirements and for the purpose of ascertaining that amount –

- (a) the requirements of the student shall be taken to be the aggregate of the amounts specified in Schedule 6 other than those specified in paragraphs 9 and 10 as are applicable in this case; and
- (b) the resources of the student shall be taken to be the aggregate of his income for the year calculated in accordance with Part I of Schedule 7 and any contribution applicable in his case by virtue of Part II or III of that Schedule.

(2) There shall be added to the sum referred to in regulation 10(1)(b) the amount of any supplementary requirements of the student specified in paragraphs 9 and 10 of Schedule 6, less such part of any amount subtracted in accordance with regulation 10(1)(a) as is not required to reduce the amount payable in respect of fees to nil.

(5) This regulation and Schedules 6 and 7 shall have effect –

- (a) in the case of such a student as is mentioned in Schedule 8, subject to the provisions thereof;
- (b) where regulation 13 applies, subject as therein provided.

Assessment of requirements and resources

12. The requirements and resources of a student shall be assessed by the board, and for the purpose of the exercise of its functions under this regulation, the board shall require the student to provide from time to time such information as it considers necessary as to the resources of any person whose means are relevant to the assessment of his requirements and resources.

Sandwich courses

13.—(1) This regulation shall apply where the course is a sandwich course unless the course is a course of initial teacher training.

(2) For the purpose of calculating payments under regulation 10 in respect of a sandwich year, that regulation and Schedule 6 and 7 shall have effect subject to the provisions of Schedule 9; but no payments in respect of maintenance shall be made in respect of a year in which there are no periods of full-time study.

Courses of teacher training

14.—(1) This regulation shall apply –

- (a) where the course is a part-time course of teacher training described in paragraph (b) or (c) of the definition of “course of initial teacher training” in regulation 3(1); or
- (b) where it is a partly full-time and partly part-time course described in paragraph (c) of the said definition.

(2) Where the course is described in paragraph (b) of the definition of “course of initial teacher training” in regulation 2(1), the payment in respect of maintenance under regulation 10(1)(b) shall be a grant equal to three-quarters of the sum otherwise payable.

(3) Subject to paragraphs (4) and (5) where the course is described in paragraph (c) of the definition of “course of initial teacher training” in regulation 2(1), the payment under regulation 10(1)(b) shall be –

- (a) in a year in which the student’s periods of attendance are all periods of full-time attendance or in which his aggregate period of full-time attendance is 30 weeks or more, the maintenance grant;
- (b) in a year in which the student’s periods of attendance are all periods of part-time attendance, in the case of an old award, the sum of £325;
- (c) in any other year, a sum equal to the aggregate of –
 - (i) the proportion of the maintenance grant which the student’s aggregate period of full-time attendance in the year, expressed in weeks, bears to 30; and
 - (ii) in the case of an old award the proportion of £325 which the difference between the said aggregate period and 30 weeks bears to 30.

(4) In relation to a student employed full-time as a teacher, paragraph (3) shall have effect, except that in such a year as is mentioned in sub-paragraph (a) thereof, as if it provided that the payment under regulation 11 should be £90.

(5) In relation to a student attending a course provided at the University of Oxford or the University of Cambridge, sub-paragraphs (a) and (c) of paragraph (3) shall have effect as if any reference therein to –

- (a) a period of 30 weeks were a reference to 25 weeks; and
- (b) the proportion which a period expressed in weeks bears to 30 were a reference to the proportion which that period bears to 25.

(6) For the purposes of this regulation a day shall be reckoned as a seventh of a week, and “attendance” means attendance for the purposes of study or teaching practice.

Method of payment

15.—(1) Subject to paragraphs (2) to (6), the board shall make any payment due under these Regulations in such instalments (if any) and at such times as it considers appropriate; and in the exercise of its functions under this regulation the board may make provisional payments pending the final calculation of the award.

(2) Subject to paragraphs (3) and (4) the board shall pay such fees as are described in Schedule 5 promptly when a valid request for payment in respect thereof has been received.

(3) Fees described in paragraphs (i), (iii), (v), (vi), (vii) and (ix) of Schedule 5 shall be paid during the period of 10 weeks which begins after the expiry of 3 months from the beginning of the year except in respect of a student who becomes eligible for an award after 1st September 1999 in respect of a course that began before 1st September 1998, in which case fees shall be paid as soon as reasonably practicable thereafter.

(4) Payment of fees described in paragraphs (ii), (iv), (viii) and (x) of Schedule 5 shall be made in the number of instalments, if any, mentioned therein after the first dates on which the student is required to attend his course after 1st January, 1st April, 1st July and 1st September respectively,

beginning with a payment after the first date on which he is required to attend after the beginning of the year of the course, and continuing with payments after the next such first dates on which he is required to attend, until all the instalments which are payable for the year have been paid.

- (5) All payments shall be made to the student, except –
- (a) payment of the fees described in Schedule 5 may be made to the academic authority; and
 - (b) where amounts specified in paragraph 9 or 10 of Schedule 6 are payable to him on his written instruction payment in respect of his maintenance grant may be made to a third party.

(6) Without prejudice to regulation 16 or the recovery of an overpayment by way of a deduction from a subsequent payment, any overpayment or underpayment made in pursuance of this regulation shall be adjusted by payment between the student or, as the case may be, the academic authority and the board.

Reduced entitlement to payments

16.—(1) In respect of any period during which the student repeats any part of his course, the board shall not be required to make any payments under regulation 10 but may pay in pursuance of the award such amounts (if any) as it considers appropriate, being amounts not exceeding the amount of any payments that would, apart from this regulation, be payable to that student in respect of that period.

- (2) Paragraph (3) shall apply in the case of a student who –
- (a) has previously attended a course of higher education being –
 - (i) in the case of a specified course, a course of up to two academic years' duration; or
 - (ii) in the case of a course other than a specified course, a course of two academic years' duration; or
 - (b) has previously successfully completed a part-time course corresponding to such a course as is mentioned in sub-paragraph (a) (“the previous course”) and who holds an award made in respect of a course of initial teacher training or a course listed in paragraph 1 or 5 of Schedule 2, being a course of more than one year’s duration (“the current course”).

(3) A board shall only be required to make payments under regulation 10 in pursuance of an award in respect of the current course where –

- (a) that course is not more than two years' duration, in respect of the final year of the student’s course;
- (b) that course is of a greater number of years' duration, in respect of the last two years of the student’s course,

but, in respect of any other year of the student’s current course it may make such payments as it considers appropriate, not exceeding those payments which would, apart from this regulation, have been payable under regulation 10.

- (4) In paragraphs (2) and (3) any reference –
- (a) 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;
 - (b) to the final year or years of a student’s course is in the case of a student so excused part of the course, a reference thereto after taking account of the consequential reduction in the duration of his course;
 - (c) to a person’s having attended a course shall be construed as provided in regulation 7(1).

(5) Where a board is under a duty to make an award to a person during a year because he has become –

- (a) a European student as a result of the accession of the State of which he is a national to the European Community; or
- (b) a refugee, or the spouse or child of a refugee, as a result of the recognition of him, or his spouse or parent, as a refugee,

it shall deduct from the sums and grant payable in respect of that year in pursuance of the award under regulation 10 the amounts referred to in paragraph (7).

(6) Where a student is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(16) and

- (a) his course is an international course, and
- (b) all the periods of study during a year are at an institution outside the United Kingdom,

no sum shall be payable in respect of fees under regulation 10(1)(a) in respect of that year.

(7) The amounts to be deducted under paragraph (5) are –

- (a) from the sum payable in respect of fees under regulation 10 any amount payable before the date on which the student became a European student or the refugee was recognised as a refugee; and
- (b) from the sum or grant payable in respect of maintenance under regulation 10 the proportion of that sum or grant which relates to the period before the date referred to in sub-paragraph (a).

(8) Where an award has been transferred by the board under paragraph 1(1)(a) or (b) of Schedule 3 and –

- (a) the requisite recommendation or consent to the transfer is given after the expiry of four months after the end of the first year of the course in respect of which the award was originally made (“the previous course”); and
- (b) the board is not satisfied, after consulting the academic authority or authorities concerned, that the fact that the requisite recommendation or consent was given after the expiry of the period specified in sub-paragraph (a) was due only to the need to apply through a clearing admission system; and
- (c) the board is satisfied, after consulting the academic authority or authorities concerned, that the period which the student in question will ordinarily require for the completion of the course which he now attends (“the current course”) will expire later than the period which he would have required for the completion of the previous course,

then the board shall not make payments otherwise due under regulation 10 in respect of the current course in respect of the period mentioned in paragraph (9).

(9) The period referred to in paragraph (8) is the period which begins on the first day on which the student attends the current course and which ends after the number of weeks mentioned in paragraph (10).

(10) The number of weeks referred to in paragraph (9) is the difference between the number of weeks from the beginning of the current course which the student in question will ordinarily require to complete it and the number of weeks from the same date which he would have required to complete the previous course.

(11) Where an award has been transferred under paragraph 1(1)(c) or (d) of Schedule 3 so as to be held in respect of a student’s attendance at a course for the degree of Bachelor of Education (“the current course”) if the period which the student in question would ordinarily require for the

completion of the current course, when aggregated with the period for which the student has already pursued a course in respect of which the award was held (“the overall period of study”), exceeds –

- (a) five years where the current course is for the honours degree of Bachelor of Education; or
- (b) four years where the current course is for that degree not being an honours degree,

(“the prescribed period of study”) then the board shall not make payments otherwise due under regulation 11 in respect of the current course in respect of the period mentioned in paragraph (12).

(12) The period referred to in paragraph (11) is the period beginning on the first day on which the student attends the current course and continues for the number of weeks mentioned in paragraph (13).

(13) The number of weeks referred to in paragraph (12) is the number of weeks by which the overall period of study exceeds the prescribed period of study.

(14) In determining the period ordinarily required to complete a course for the purposes of paragraph (8), (10) or (11) there shall be included vacations, and any period until the end of the final year of the course, but there shall be ignored –

- (a) in each case, periods of experience which are part of a sandwich course; and
- (b) in the case of the previous course any period during which the student would now be required by the academic authority to repeat part of the course, if the board would not make any payments for maintenance in respect of that period under paragraph (1).

(15) For the purposes of paragraphs (8) and (11) a payment is due in respect of the period mentioned in paragraphs (9) and (12) respectively if it is –

- (a) any instalment or other payment on account of fees becoming payable under regulation 11 during that period; or
- (b) a sum or grant payable, or the proportion of a sum or grant payable, in respect of maintenance under regulation 10 which relates to that period.

Withholding and reduction of payments

17.—(1) Without prejudice to paragraphs 2(1)(c) and 4(2) of Schedule 3 in the case of any student who is for the time being in default of any requirement to provide such information as is described in regulation 13, the board may withhold, in part, any payment due to him in respect of maintenance and calculated or determined in accordance with regulations 11, 13 or 14.

(2) No payment shall be made in respect of fees if –

- (a) before the date on which the fees become payable the student ceases to attend the course; and
- (b) the academic authority has determined or agreed that he will not commence attending again during the year in respect of which the fees are payable, or at all.

(3) In respect of any period –

- (a) after the termination of an award;
- (b) during which a student is excluded by the academic authority from attendance at the course; or
- (c) during which a student is absent without leave from his course,

any payment in respect of maintenance otherwise due in pursuance of the award shall be reduced by the sum mentioned in paragraph (5).

(4) In respect of any other period being –

- (a) a period during which a student is absent from his course (other than a period of not more than 60 days due to illness); and

- (b) where an award held in respect of one course is transferred in pursuance of paragraph 1(1) of Schedule 3 so as to be held in respect of another course, a period during which the student is not required to attend either course (other than the period of a single vacation); or
 - (c) a period during which the student is detained in pursuance of an order made by any court,
- the board may reduce any payment in respect of maintenance otherwise due in pursuance of the award by such amount, not exceeding the sum mentioned in paragraph (5), as having regard to all relevant circumstances it considers appropriate.
- (5) The sum referred to in paragraphs (3) and (4) is the aggregate of –
 - (a) the maintenance grant calculated under regulation 11(1) multiplied by the number of days for which the period in question lasted divided by the number of days in respect of which the grant is payable for the year; and
 - (b) such portion of the maintenance grant calculated under regulation 11(2) as the board considers appropriate.
 - (6) In determining the number of days for which the period in question lasted under paragraph (5) the board shall disregard the first 60 days of any period of absence due to illness.

Revocations, savings and transitional provisions

- 18.**—(1) The Students Awards Regulations (Northern Ireland) 2001⁽¹⁷⁾ are hereby revoked.
- (2) Without prejudice to section 29(3)(a) of the Interpretation Act (Northern Ireland) 1954⁽¹⁸⁾ and to the definition of “award in regulation 2(1)”, an old award made in pursuance of previous awards regulations before the coming into operation of these Regulations, insofar as it could have been made in pursuance of these Regulations, shall for the purposes thereof, be treated as having been so made.
- (3) Where the current academic year of a student’s course began in the winter or the spring of 2002 then, notwithstanding anything in these Regulations, payments in pursuance of an old award to that student in respect of the year beginning on 1st January 2002 or, as the case may be, 1st April 2002 shall be the aggregate of –
- (a) two-thirds or, as the case may be, one-third of the payments in pursuance of that award which would have fallen to be made in respect of that year under the Students Awards (Northern Ireland) Regulations 2001 had they not been revoked; and
 - (b) one-third or, as the case may be, two-thirds of the payments which would have fallen to be made in respect of the year beginning on 1st September 2002 under these Regulations had the academic year of that course begun in the autumn of 2002.
- (4) In the case of a course at the University of Buckingham beginning in the winter, spring or summer of 2002 then, notwithstanding anything in these Regulations, payments in pursuance of an old award in respect of the year beginning on 1st January, 1st April or 1st July (as the case may be) shall be the aggregate of –
- (a) three-quarters, one-half or one-quarter (as the case may be) of the payments which would have fallen to be made in respect of that year under the Students Awards Regulations (Northern Ireland) 2001 had they not been revoked; and
 - (b) one-quarter, one-half or three-quarters (as the case may be) of the payments which would have fallen to be made in respect of the year beginning on 1st September 2002 under these Regulations had the academic year of the course begun in the autumn of 2002.
- (5) Where an award was made to a student under Article 50(3) of the Order (“the discretionary award”) in respect of a course to which Article 50(1) and (2) did not then apply but the course

(17) S.R. 2001 No. 298

(18) 1954 c. 33 (N.I.)

becomes or has become a specified course and an award within the meaning of these Regulations is or has been made to the student in respect of that course, then if the discretionary award continues to be payable it shall be disregarded in calculating the student's income for the purposes of regulation 11(1) (b); but payments on account of the mandatory award in respect of fees and in respect of maintenance for any period shall be respectively reduced or extinguished by those on account of the corresponding element of the discretionary award.

(6) Where –

- (a) an award was made to a person pursuant to previous awards regulations in respect of his attendance at a course during an academic year beginning before 1st September 1997; and
- (b) the person immediately after ceasing to attend that course (disregarding any intervening vacation) begins to attend another course,

a board shall not be excepted from the duty to make an award in respect of the person's attendance at the second course by the application of the exception relating to settlement in the United Kingdom found in paragraph 2(a) of Schedule 1.

(7) In relation to a person who commenced attendance at an institution of Higher Education in the Republic of Ireland providing a full-time course comparable to one listed in paragraph 1, 2, 3 or 4 of Schedule 2 before 10th July 1997 or could have commenced such attendance before that date but for choosing to defer such attendance, the following provisions of the Students Awards Regulations (Northern Ireland) 1996(19) shall continue to apply as if those Regulations had not been revoked –

- (a) the definition of “institution” in regulation 2(1);
- (b) sub-paragraph (i) of paragraph (a) in Schedule 6.

Sealed with the Official Seal of the Department for Employment and Learning on 6th August 2002.

L.S.

Tom Scott
A senior officer of the
Department for Employment and Learning