
STATUTORY INSTRUMENTS

2000 No. 2123

The Education (Mandatory Awards) Regulations 2000

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Mandatory Awards) Regulations 2000 and shall come into operation on 1st September 2000.

Definitions

2. In these Regulations, unless the context otherwise requires—

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

“authority” means a local education authority;

“award” includes either a fees only award or a full award bestowed under these Regulations and any award bestowed under previous Awards 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;

“course”, “designated course”, “sandwich course” and other qualified references to courses have the meanings respectively assigned to them by regulation 4;

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

“dependent” means wholly or mainly financially dependent;

“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 of any office and to any occupation for gain;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(1) as adjusted by the Protocol signed at Brussels on 17th March 1993(2);

“EEA migrant worker” has the meaning assigned to it in regulation 5;

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

(1) Cmnd. 2073.

(2) Cmnd. 2183.

“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;

“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 13(1)(a) and (b) or who is not settled in the United Kingdom as described in regulation 13(1)(c);

“fees only award” means an award bestowed only in respect of fees described in Schedule 1;

“full award” means an award bestowed in respect of both fees described in Schedule 1 and a maintenance grant;

“high-cost country” means . . . Austria, Belgium, countries of the Commonwealth of Independent States, Eire, Finland, France (excluding Départements-d’Outre Mer), Germany, Iceland, Indonesia, Israel, . . . Luxembourg, the Netherlands, . . . **Norway and Sweden**;

“higher-cost country” means Denmark, Hong Kong, Japan, the Republic of Korea, . . . Switzerland and Taiwan;

“independent student” has the meaning assigned to it by regulation 3;

“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(3);

“maintenance grant” has the meaning assigned to it by regulation 17;

“Metropolitan Police District” means the area referred to in section 76(1) of the London Government Act 1963(4) **as it had effect prior to its amendment by section 323 of the Greater London Authority Act 1999(5)**;

“old award” means an award bestowed under previous Awards Regulations which is an old award within the meaning of the Education (Mandatory Awards) Regulations 1998(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 5;

“previous Awards Regulations” means Regulations made under section 1 of the Education Act 1962 and revoked either by regulation 6 or before the coming into force of these Regulations;

“refugee” means a person who is recognized 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(7) as extended by the Protocol thereto which entered into force on 4th October 1967(8) 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;

“statutory award” means any award bestowed or grant paid by virtue of the Education Act 1962 or any comparable award, grant or other payment made in respect of attendance at a course which is paid out of moneys provided by Parliament;

(3) 1994 c. 30.

(4) 1963 c. 33; section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), article 11.

(5) 1999 c. 29.

(6) S.I. 1998/1166, amended by The Education (Mandatory Awards) Regulations 1998 (Amendment) Regulations 1998 (S.I. 1998/1972).

(7) Cmnd. 9171.

(8) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Student Support Division, Room 1NU8, the Department for Education and Employment, Sanctuary Buildings, Great Smith Street, London SW1P 3BT).

“student” means a person upon whom an award has been bestowed under these Regulations or previous Awards Regulations;

...

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

“year”, in relation to a course, means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according as the academic year of the course in question begins in the winter, the spring, the summer or the autumn respectively; and references to the first or the final year of a designated course shall be construed accordingly.

References to independent students

3.—(1) In these Regulations “independent student” means a student who—

- (a) has attained the age of 25 years 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 before the first year of his course aggregating not less than three years; or
- (c) has been married for at least two years 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.

(2) For the purposes of paragraph (1)(b) a student shall be treated as having supported himself out of his earnings for any period or periods for 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) the student 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) the student 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) the student held a State Studentship or comparable award; or
- (e) the student 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) the student 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.

(3) For the purposes of paragraph (1)(e) a student shall be regarded 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.

(4) In this regulation “parent” shall have the same meaning as in Part II of Schedule 3 to these Regulations.

References to courses

4.—(1) In these Regulations any reference to a designated course shall be construed as a reference to a course designated by or under regulation 10 and, in relation to any person, any reference to such a course (otherwise unqualified) shall, as the context requires, be construed as a reference to a designated course which the person in question attends or has applied to attend; and, in relation to any designated course except one designated under regulation 10(1)(d), any reference to a course shall be construed as a reference to either a course of full-time study or a sandwich course.

(2) In these Regulations any reference to a first degree course, a Dip HE course, an HND course, a course of initial training for teachers, a course comparable to a first degree course or an international course shall be construed in accordance with regulation 10.

(3) In these Regulations any reference to a sandwich course shall be construed as a reference to such a course within the meaning of paragraph 1 of Schedule 5.

(4) In these Regulations, any reference to a course of higher education shall be construed in accordance with section 120(1) of the Education Reform Act 1988(9).

(5) For the purposes 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 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.

General construction and interpretation

5.—(1) In these Regulations, references to payments made to a student include references to payments made to the academic authority or to a third party in respect of the student by virtue of regulation 24(5).

(2) 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).

(3) For the purposes of these Regulations 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.

(4) A person shall be treated for the purposes of regulation 13 as ordinarily resident in England and Wales, in the British Islands or in the European Economic Area, if the authority are satisfied that he would have been so resident at the relevant time but for the fact that he, his spouse, his 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, temporarily employed outside England and Wales, outside the British Islands or, as the case may be, outside the European Economic Area and paragraph (1)(b) of regulation 13 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.**

(5) For the purposes of these Regulations an area which—

(a) was previously not part of the European Community or the European Economic Area, but

(9) 1998 c. 40.

- (b) at any time before or after these Regulations come into force has become part of one or other or both of those areas,

shall be considered to have always been part of the European Economic Area.

(6) In these Regulations a reference to an EEA migrant worker is a reference to 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—

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community, as extended by the EEA Agreement(10); or
- (b) 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 above mentioned Council Regulation.

(7) Except where the context otherwise requires, in these Regulations any reference to a regulation or a Schedule is a reference to a regulation contained herein or a Schedule hereto and a reference in a regulation or a Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule, and a reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph thereof.

Revocations and transitional provisions

6.—(1) . . . The Education (Mandatory Awards) Regulations 1999(11) and **The Education (Mandatory Awards) (Amendment) Regulations 2000(12)** are hereby revoked.

(2) Without prejudice to section 17(2)(b) of the Interpretation Act 1978(13) and the definition of “award” in regulation 2, an old award bestowed in pursuance of previous Awards Regulations before the coming into force of these Regulations, in so far as it could have been bestowed in pursuance of these Regulations, shall, for the purposes thereof, be treated as having been so bestowed.

(3) Subject to paragraph (4), where the current academic year of a student’s course began in the winter or spring of **2000** then, notwithstanding anything in these Regulations, payments in pursuance of an old award in respect of the year beginning on 1st January or, as the case may be, 1st April **2000** shall be the aggregate of—

- (a) two-thirds or, as the case may be, one-third of the payments which would have fallen to be made in respect of that year under the Education (Mandatory Awards) Regulations 1999 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 **2000** under these Regulations had the academic year of his course begun in the autumn of **2000**.

(4) In the case of a course at the University of Buckingham beginning in the winter, spring or summer of **2000** 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 Education (Mandatory Awards) Regulations 1999 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 **2000** under these Regulations had the academic year of the course begun in the autumn of **2000**.

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

(11) S.I. 1999/1494.

(12) S.I. 2000/1425.

(13) 1978 c. 30.

...

(5) Where an award was bestowed on a student under section 2 of the Education Act 1962 (“the discretionary award”) in respect of a course to which section 1 of that Act did not then apply but the course becomes or has become a designated course and an award within the meaning of these Regulations is or has been bestowed on the student in respect of that course (“the mandatory award”) then, if the discretionary award continues to be payable it shall be disregarded in calculating the student’s income for the purposes of regulation 18(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 an award has been bestowed pursuant to previous Awards Regulations—

- (a) before 1st September 1995 in respect of a person’s attendance at a course referred to in regulation 25(3) of the Education (Mandatory Awards) (No. 2) Regulations 1993(14) (“the 1993 regulation”), or
- (b) on or after 1st September 1995 but before 1st September 1996 in respect of a person’s attendance at a course referred to in regulation 25(3) of the Education (Mandatory Awards) Regulations 1994(15) (“the 1994 regulation”),

regulation 25(3) of these Regulations shall have effect in relation to that course as if for the subjects referred to therein there were substituted the subjects referred to in the 1993 regulation or the 1994 regulation respectively.

(7) Where—

- (a) an award was bestowed on 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,

an authority shall not be excepted from the duty to bestow 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 regulation 13(1)(c).

PART II

AWARDS

Duty to bestow an award

7.—(1) Subject to paragraph (2), 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 2000 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

(14) S.I. 1993/2914.

(15) S.I. 1994/3044.

beginning after 31st August **2000** if the person is a European student and the institution at which he attends his course is within the area of the authority.

(2) The duty of an authority to bestow an award in pursuance of section 1(1) of the Education Act 1962, which was repealed with transitional and saving provisions on 1st January 1999 by section 44(2) of and Schedule 4 to the Teaching and Higher Education Act 1998(**16**), shall apply only to the extent provided for in articles 3 and 4 of the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998, that is in respect of a person's 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 bestowed on him in respect of his attendance at the DipHE or HND course was an old award, or where no award was bestowed an award would have been an old award if it had been bestowed;
- (b) 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 bestowed on him in respect of his attendance at the first degree course was an old award, or where no award was bestowed an award would have been an old award if it had been bestowed;
- (c) a course the first year of which began before 1st September 1999.

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(**17**) 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.

(16) 1998 c. 30; section 44(2) came into force for the purpose of bringing into force the repeal of the Education Act 1962 by virtue of the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I. 1998/3237 (C. 81)).

(17) S.I. 1996/615.

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 DipHE 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(18), 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 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 three 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⁽¹⁹⁾.

(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 as 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⁽²⁰⁾.

(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 in pursuance of section 63 of the Health Services and Public Health Act 1968⁽²¹⁾ or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽²²⁾ in respect of the courses referred to therein; and

⁽¹⁹⁾ S.I. 1978/1096 to which there are amendments not relevant to these Regulations.

⁽²⁰⁾ 1988 (c. 40).

⁽²¹⁾ 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 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); and the National Health Service (Primary Care) Act 1997 (c. 46), section 41(10) and Schedule 2, paragraph 9.

⁽²²⁾ S.I. 1972/1265 (N.I. 14).

(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(23) 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,
- (b) has been granted leave to enter or remain accordingly, and

(23) 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.

(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⁽²⁴⁾, 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.

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.

Termination of awards

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

⁽²⁴⁾ OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968 (II) p. 457).

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 an 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.

PART III PAYMENTS

Payments

- 17.—**(1) Subject to regulations 16, 20, 21, 22, 23, 25 and 26, the authority shall in respect of each year pay in pursuance of an award—
- (a) in respect of fees, a sum equal to the aggregate of any such fees payable in respect of the student as are described in Schedule 1, less—
 - (i) the amount if any by which the student's resources exceed his requirements for the purposes of regulation 18(1) (whether or not a maintenance grant is calculated under sub-paragraph (b)), or
 - (ii) the amount of any income referred to in paragraph 1(1)(b) of Schedule 3 which is not disregarded under that paragraph,whichever is the less;
 - (b) where the award is a full award, in respect of maintenance a sum calculated in accordance with regulation 18.
- (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 authority to be appropriate shall be treated as being in respect of the Easter and Christmas vacations.

Calculation of grant

18.—(1) Subject to paragraph (2) the sum mentioned in paragraph 17(1)(b) shall be the amount by which the student’s resources fall short of his requirements and for the purposes of ascertaining that amount—

- (a) the requirements of the student shall be taken to be the aggregate of the amounts specified in Schedule 2 other than those specified in paragraph 9 and 10 as are applicable in his case;
- (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 3 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 17(1)(b) the amount of any supplementary requirements of the student specified in paragraphs 9 and 10 of Schedule 2, less such part of any amount subtracted in accordance with regulation 17(1)(a) as is not required to reduce the amount payable in respect of fees to nil.

(3) This regulation and Schedules 2 and 3 shall have effect—

- (a) in the case of such a student as is mentioned in Schedule 4, subject to the provisions thereof; and
- (b) where regulation 20 applies, subject as therein provided.

Assessment of requirements and resources

19. The requirements and resources of a student shall be assessed by the authority and, for the purpose of the exercise of their function under this regulation, the authority shall require the student to provide from time to time such information as they consider necessary as to the resources of any person whose means are relevant to the assessment of his requirements and resources.

Sandwich courses

20.—(1) This regulation shall apply where the course is a sandwich course unless—

- (a) the student is a member of a religious order and regulation 21 applies; or
- (b) the course is a course for the initial training of teachers designated under regulation 10(1)(d).

(2) For the purpose of calculating payments under regulation 17 in respect of a sandwich year, that regulation and Schedules 2 and 3 shall have effect subject to the provisions of Schedule 5; 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.

Members of religious orders

21.—(1) This regulation shall apply where the student is a member of a religious order (“the Order”) unless the course is a course of teacher training designated under regulation 10(1)(d)(iii) and regulation 22 applies.

(2) The payment in respect of maintenance under regulation 17(1)(b) in the case of a student upon whom an old award has been bestowed shall be the sum specified as appropriate in paragraph (3) or (4):

Provided that—

- (a) where the course is a sandwich course, the payment in respect of a sandwich year shall be the . . . proportion of the sum otherwise payable in respect of maintenance and no payment shall be made in respect of a year which includes no periods of full-time study;

(b) where the course is a part-time course of teacher training designated under regulation 10(1)(d)(ii), the payment shall be three-quarters of the sum so specified.

(3) In the case of a student who resides at his parents' home or in a house of the Order, the appropriate sum shall be **£730**.

(4) In the case of any other student, the appropriate sum shall be **£1,000** except that, where he is attending a course—

(a) at the University of London, or

(b) at an institution within the area comprising the City of London and the Metropolitan Police District,

it shall be **£1,255** and where he is attending a course in a country outside the United Kingdom it shall be—

£1,445 if that country is a higher-cost country;

£1,085 if that country is a high-cost country; and

£885 in any other case.

(5) In this regulation “**prescribed proportion**” shall have the same meaning as in Schedule 5 to these Regulations.

Courses of teacher training

22.—(1) This regulation shall apply—

(a) where the course is a part-time course of teacher training designated under sub-paragraph (d)(ii) or (d)(iii) of regulation 10(1); or

(b) where it is a partly full-time and partly part-time course designated under the said sub-paragraph (d)(iii),

unless the student is a member of a religious order, the course is a part-time course of teacher training designated under the said sub-paragraph (d)(ii) and regulation 21 applies.

(2) Where the course is designated under the said-sub-paragraph (d)(ii), the payment in respect of maintenance under regulation 17(1)(b) shall be a grant equal to three-quarters of the sum otherwise payable.

(3) Subject to the following paragraphs, where the course is designated under the said sub-paragraph (d)(iii), the said payment under regulation 17(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 in such a year as is mentioned in sub-paragraph (a) thereof, as if it provided that the said payment under regulation 17 should be £90;

(5) In relation to a student attending a course provided at the University of Oxford or 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 a period of 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.

Assisted Students

23. Notwithstanding anything in the preceding provisions of these Regulations, no payment under regulation 17 shall be made to a person in respect of any year in respect whereof he receives any payment in pursuance of any bursary or award of similar description bestowed on him in pursuance of section 63 of the Health Services and Public Health Act 1968⁽²⁵⁾ or article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽²⁶⁾ in respect of a course in nursing, occupational therapy, orthoptics, physiotherapy, radiography, midwifery, speech and language therapy, chiropody, dietetics or prosthetics and orthotics.

Method of payment

24.—(1) Subject to paragraphs (2) to (6), the authority shall make any payment due under these Regulations in such instalments (if any) and at such times as they consider appropriate: and in the exercise of their functions under this paragraph the authority may in particular make provisional payments pending the final calculation of the award.

(2) Subject to paragraphs (3) and (4), the authority shall pay such fees as are described in Schedule 1 promptly when a valid request for payment in respect thereof has been received.

(3) Fees described in paragraph (i), (ii), (iv), (v), (vi) and (viii) of Schedule 1 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 1 September 1998, in which case fees shall be paid as soon as reasonably practicable thereafter.

(4) Fees described in paragraphs (iii) and (vii) of Schedule 1 shall be paid in the number of instalments 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 1 may be made to the academic authority;

and

- (b) where amounts specified in paragraph 9 or 10 of Schedule 2 are payable to him on his written instruction payment in respect of his maintenance grant may be made to a third party.

(25) 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 1, paragraph 19(3), the Local Government Act 1985 (c. 51), section 102(2) and Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 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) and Schedule 13, paragraph 74(1) and (2), and The Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 95(2) and the National Health Service (Primary Care) Act 1997 (c. 46), section 41(10) and Schedule 2, paragraph 9.

(26) S.I. 1972/1265 (N.I. 14).

(6) Without prejudice to regulation 26 or the recovery of an over-payment by way of a deduction from a subsequent payment, any over-payment or under-payment 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 authority.

Reduced entitlement to payments

25.—(1) In respect of any period during which the student repeats any part of his course, the authority shall not be required to make any payments under regulation 17 but may pay in pursuance of the award such sums (if any) as they consider appropriate, being sums not exceeding the amount of any payments that would, apart from this regulation, be payable to that student in respect of that period.

(2) Subject to paragraph (3), paragraph (4) shall apply in the case of a student who—

- (a) has previously attended a course of higher education being—
 - (i) a course of up to two academic years' duration, in the case of one designated by or under regulation 10(1), or
 - (ii) a course of two academic years' duration, in the case of one not so designated, or
- (b) has previously successfully completed a part-time course corresponding to such a course as is mentioned above

(“the previous course”), and who holds an award bestowed so as to be held, in respect of a course designated by or under regulation 10(1)(a), (d) or (e) being a course of more than one year’s duration (“the current course”).

(3) Paragraph (4) shall not apply if the current course is for the degree of Bachelor of Education (or a comparable first degree or academic award of an institution) and a subject thereof is—

- (a) physics, chemistry or biology (or a combination of those subjects); or
- (b) mathematics; or
- (c) design and technology; or
- (d) information technology; or
- (e) a modern foreign language or languages; or
- (f) Welsh; or
- (g) religious education; or
- (h) music; or
- (i) geography; or
- (j) some other subject the study of which the authority are satisfied fits a person to teach in schools any of the above-mentioned subjects.

(4) Where this paragraph applies, the authority shall only be required to make payments under regulation 17 in pursuance of the award in respect of the current course—

- (a) where that course is of not more than two years' duration, in respect of the final year of the student’s course;
- (b) where 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, they may make such payments as they consider appropriate not exceeding those which would, apart from this regulation, have been payable under regulation 17 as aforesaid.

(5) In paragraphs (2) and (4) 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; and
 - (c) to a person's having attended a course shall be construed as provided in regulation 12(9) and (10).
- (6) Where the authority have come under a duty to bestow an award on 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,
- they shall deduct from the sums and grant payable in respect of that year in pursuance of the award under regulation 17 the amounts referred to in paragraph (8).
- (7) Where a student is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS⁽²⁷⁾ and
- (a) his course is an international course, and
 - (b) all the periods of study during the year are at an institution outside the United Kingdom
- no sum shall be payable in respect of fees under regulation 17(1)(a) in respect of that year.
- (8) The amounts to be deducted under paragraph (6) are—
- (a) from the sum payable in respect of fees under regulation 17 any amount payable before the date on which the student became a European student or the refugee was recognized as a refugee, and
 - (b) from the sum or grant payable in respect of maintenance under regulation 17 the proportion of that sum or grant which relates to the period before the date referred to in sub-paragraph (a).
- (9) Where an award has been transferred by the authority under regulation 14(1)(a) or (b) 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 bestowed ("the previous course"), and
 - (b) the authority are 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 authority are 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 authority shall not make payments otherwise due under regulation 17 in respect of the current course in respect of the period mentioned in paragraph (10).
- (10) The period referred to in paragraph (9) is the period which begins on the first day the student attends the course and which ends after the number of weeks mentioned in paragraph (11).

(27) ERASMUS is part of the European Community action programme SOCRATES, OJ No. L87, 20.4.95, p.10.

(11) The number of weeks referred to in paragraph (10) 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.

(12) Where an award has been transferred under regulation 14(1)(c) or (d) 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 authority shall not make payments otherwise due under regulation 17 in respect of the current course in respect of the period mentioned in paragraph (13).

(13) The period referred to in paragraph (12) 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 (14).

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

(15) In determining the period ordinarily required to complete a course for the purposes of paragraph (9), (11) or (12) 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 authority would not make any payments for maintenance in respect of that period under paragraph (1).

(16) For the purposes of paragraphs (9) and (12) a payment is due in respect of the period mentioned in paragraphs (10) and (13) respectively if it is—

- (a) any instalment or other payment on account of fees becoming payable under regulation 17 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 17 which relates to that period.

Withholding and reduction of payments

26.—(1) Without prejudice to regulation 16, 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 19, the authority may withhold, in part, any payment due to him in respect of maintenance and calculated or determined in accordance with regulation 18, 20, 21, or 22.

(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 from attendance at the course by the academic authority; or

(c) during which a student is absent from his course without leave, 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);

(b) where an award held in respect of one course is transferred in pursuance of regulation 14 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 authority 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 they consider appropriate.

(5) The sum referred to in paragraphs (3) and (4) is the aggregate of—

(a) the maintenance grant calculated under regulation 18(1) multiplied by the number of days for which the period in question lasted divided by 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 18(2) as the authority consider appropriate.

(6) In determining the number of days for which the period in question lasted under paragraph (5) the authority shall disregard the first 60 days of any period of absence due to illness.

2nd August 2000

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