

1989 No. 1235

EDUCATION, ENGLAND AND WALES

The Education (Assisted Places) Regulations 1989

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In exercise of the powers conferred on the Secretary of State by sections 17(6) and (7) and 35(4) of the Education Act 1980(a) and after consulting, in accordance with section 17(8) of that Act, such bodies as appear to them to be appropriate and to be representative of schools eligible to participate in the assisted places scheme, the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations, a draft of which has been laid before Parliament and has been approved by resolution of each House of Parliament:—

PART I GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Assisted Places) Regulations 1989 and shall come into force on 12th August 1989.

(2) These Regulations shall apply in relation to a school year beginning on or after the date mentioned in paragraph (1).

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“child” includes a step-child and a child adopted in pursuance of adoption proceedings and “father” and “mother” shall be construed accordingly; and it is hereby declared that notwithstanding the definition in section 114(1) of the Education Act 1944(b) “child” includes a child who is over compulsory school age;

“employment” includes the holding of any office and any occupation for gain and “employed” shall be construed accordingly;

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

“fees” means—

- (a) tuition and other fees the payment of which is a condition of attendance at a school but excludes boarding fees and such other fees, if any, as may be excluded by the participation agreement, and
- (b) entrance fees for public examinations paid by a school in respect of candidates from the school;

“financial year” has the meaning assigned thereto by Regulation 10;

“first assisted year” has the meaning assigned thereto by Regulation 3(3);

“income” and “relevant income” have the meanings assigned thereto by Regulation 11;

“national of a member state of the European Community” means a person who is a national of any member state of the European Economic Community (including the United Kingdom) as constituted from time to time for the purposes of the Community Treaties;

“remission questions” has the meaning assigned thereto by Regulation 9;

“school” means a participating school within the meaning of section 17(2) of the Education Act 1980 and references to a school include references to the proprietors thereof and persons acting with their authority.

(a) 1980 c.20.

(b) 1944 c.31.

(2) Subject to paragraphs (3) and (4), and except where the context otherwise requires, any reference in these Regulations to the parents of a child or assisted pupil is a reference—

- (a) in the ordinary case, to his father and mother or, where one is dead, to the survivor and, should he remarry, his spouse;
- (b) where his father or mother, having actual custody of him, has married a person who is not his parent, to that parent and his spouse;
- (c) where his parents, defined as in sub-paragraph (a), are divorced or, in any of the circumstances mentioned in paragraph (5), separated, to that one of them who has, or in pursuance of an order of a court is entitled to, actual custody of the child or pupil and, should that person being divorced remarry, his spouse;
- (d) where he has no parents defined as in sub-paragraphs (a), (b) and (c), to his guardian or guardians, if any;
- (e) where he has no parents so defined and no guardian, to the person or persons who have actual custody of the child or pupil.

(3) Where a custodianship order made under section 33 of the Children Act 1975^(a) is in force in respect of a child or pupil, his custodian and the spouse of the custodian (if any) shall be treated as the parents of the child or pupil for the purpose of these Regulations.

(4) Where—

- (a) a child or assisted pupil either has no parents defined as in paragraph (2)(a), (b), (c) or (d) or he has such parents but the school are satisfied that they cannot be found, and
- (b) he is either in the care of a local authority or in the care of a voluntary organisation within the meaning of section 88 of the Children Act 1975,

then, for the purposes of these Regulations, he shall be treated as a child whose parents have no income but, subject as aforesaid, any reference to his parents shall be construed as a reference to the authority or organisation in whose care he is.

(5) The circumstances referred to in paragraph (2)(c) are that the parents are separated under an order of a court of competent jurisdiction, or by deed of separation or, where they are not separated as aforesaid, that either it is not reasonably practicable to find one of the parents or that, in pursuance of an order of a court—

- (a) one parent is liable to make periodic payments to or for the benefit of the other or one or more of their children, or
- (b) one parent has been given custody of, or access to, one or more of their children, or
- (c) one parent is prohibited from entering the matrimonial home.

(6) In these Regulations any reference to a Regulation is a reference to a Regulation of these Regulations and any reference in a Regulation to a paragraph is a reference to a paragraph of that Regulation.

PART II

ELIGIBILITY FOR ASSISTED PLACES

General

3.—(1) A child shall only be eligible for selection for an assisted place if all the conditions mentioned in this Part are, so far as relevant, satisfied in his case.

(2) Nothing in this Regulation shall prevent a child from being selected for an assisted place in advance of its being ascertained that such a condition is satisfied if the selection is subject to the condition being satisfied.

(3) In this Part “first assisted year” means the school year in which a child would take up an assisted place if selected therefor.

^(a) 1975 c.72; section 33 was amended by the Family Law Act 1986 (c.55), Schedule 1, paragraph 19, and Schedule 2; and by the Family Law Reform Act 1987 (c.42), Schedule 2, paragraph 60.

Conditions as to residence

4.—(1) It shall be a condition that the child shall either—

- (a) have been ordinarily resident in the British Islands throughout the period of two years preceding 1st January in the calendar year in which his first assisted year begins (“the relevant date”), or
- (b) in the case of such a child as is mentioned in paragraph (2), have been so ordinarily resident in the European Community, or
- (c) in the case of such a child who is a refugee as is mentioned in paragraph (3), have not been ordinarily resident outside the British Islands since he or, in the case mentioned in sub-paragraph (3)(d), his parent, was recognised as a refugee or granted asylum or granted leave to enter or remain, as the case may be.

(2) The child referred to in paragraph (1)(b) is one who is resident in the British Islands on the relevant date and is the child of a national of a member state of the European Community who—

- (a) where he is employed on the relevant date, is then in employment in the British Islands, or
- (b) where he is not employed on that date (by reason of retirement or otherwise), was last employed in such employment.

(3) The child who is a refugee referred to in paragraph (1)(c) is—

- (a) a child 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(a) as extended by the Protocol thereto which entered into force on 4th October 1967(b) or
- (b) a child who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty’s government though not so recognised; or
- (c) a child who 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 asylum or for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom, and has been granted leave to enter or remain accordingly; or
- (d) a child who is the child of a person who is so recognised, or has been granted such asylum or leave to enter or remain in such circumstances.

Conditions as to age

5.—(1) It shall be a condition that the child—

- (a) either shall have attained the age of 11 years or, in the case of a child who, if selected for an assisted place, would be provided with education with pupils the generality of whom would have attained that age, be of such age that he will have attained the age of 11 years before 1st August next following the beginning of his first assisted year, and
- (b) subject to paragraph (2), shall be of such age that he will, on 31st August in the calendar year in which his first assisted year begins, be of an age specified in the participation agreement as a normal age of entry to the school or will attain that age before 1st August next following the beginning of his first assisted year.

(2) Paragraph (1)(b) shall not apply in the case of a child who, if selected for an assisted place, will be provided with education in the same class as assisted pupils who were admitted to the school in an earlier school year, or in the case of such a child as is mentioned in Regulation 6(1).

Conditions as to selection at sixth form level

6.—(1) This Regulation shall apply in the case of a child who, if selected for an assisted place, would be provided with sixth form education, that is to say, education appropriate to pupils taking advanced level examinations for the General Certificate of Education or other examinations comparable thereto.

(a) Cmd. 9171.

(b) Cmnd. 3906 (Out of print: photocopies of the English text are available, free of charge, from Schools 4 Branch, Department of Education and Science, Room 5/76, Elizabeth House, York Road, London SE1 7PH.).

(2) Where this Regulation applies, it shall be a condition that—

- (a) the participation agreement expressly provides for the selection of pupils who will be provided with sixth form education and the child satisfies such conditions, if any, as are specified for the purposes hereof in that agreement, or
- (b) the child is already attending the school when being considered for an assisted place and, if selected, would be provided with sixth form education with assisted pupils of a similar age who were admitted in an earlier school year.

Conditions as to income

7.—(1) It shall be a condition that the parents of the child, when applying to the school for an assisted place, shall have furnished the school with—

- (a) a declaration of relevant income for the preceding financial year or, if they have not the necessary information, for the financial year before that year;
- (b) a declaration of estimated relevant income for the financial year preceding the child's first assisted year;
- (c) such other information as may be specified for the purposes hereof by the Secretary of State.

(2) A school shall not select for an assisted place a child whose fees for his first assisted year would not fall to be remitted in whole or in part in pursuance of Part III of these Regulations.

(3) A school shall not select for an assisted place a child the whole of whose fees for his first assisted year are required to be paid in pursuance of an order of a court.

Academic conditions

8. A school shall not select a child for an assisted place unless they are satisfied that he is capable of benefiting from the education provided at the school but, subject as aforesaid, the selection of children for assisted places at a school shall, subject to any provisions in that regard in the participation agreement, be made by the school in accordance with such methods and procedures as appear to them appropriate.

PART III

REMISSION OF FEES

References to remission questions

9. For the purposes hereof "remission questions" mean the questions whether or not the parents of an assisted pupil are entitled to any remission of fees payable in respect of him and the extent of such remission.

References to financial years

10.—(1) For the purposes hereof "financial year" means, subject to paragraph (2), a year ending with 5th April and, in relation to a particular school year, "preceding financial year" means the financial year preceding that school year and "current financial year" means the financial year which includes the first day of that school year.

(2) Where the parents of a pupil satisfy the school that their income is wholly or mainly derived from the profits of a business, profession or vocation carried on by either or both of them, then if the parents and the school so agree, any reference in this Part to a financial year shall be construed as a reference to a year ending with such date as appears to the school expedient having regard to the accounts kept in respect of that business or profession and the periods covered thereby:

Provided that, where that year ends with a date after 5th April but before the beginning of a school year, then in relation to that school year "preceding financial year" shall mean the year last so ending before 6th April in the calendar year in which the school year begins and "current financial year" shall mean the year so ending on or after that 6th April and before the beginning of the school year.

References to income

11.—(1) For the purposes hereof the income of any person for a financial year shall, subject however to the provisions of Schedule 1 hereto, be taken to be his total income for that year; and, in this paragraph and the said Schedule, “total income” has the same meaning as in section 1(2)(b) of the Income and Corporation Taxes Act 1988(a).

(2) For the purposes hereof “relevant income” as respects an assisted pupil means, in relation to any financial year, his parents’ income for that year aggregated with the unearned income for that year, if any, of the pupil himself and of any other of the parents’ children who are wholly or mainly dependent on them at the time the relevant income is calculated less, where paragraph (3) or (4) applies, the sum there mentioned.

In this paragraph the reference to unearned income is a reference to income other than such as arises from gainful employment.

(3) Subject to paragraph (4), the relevant income, calculated as aforesaid, shall be reduced by £1,000 in respect of each person other than the assisted pupil who—

- (a) at the time the relevant income is calculated, is wholly or mainly dependent on the parents or on payments made to him or for his benefit by one or both of them, and
- (b) is a child or other relative of one or both of the parents:

Provided that, for the purposes of sub-paragraph (a), there shall be disregarded payments, other than sums paid as mentioned in paragraph 3(f) of Schedule 1 hereto, which fall to be deducted in ascertaining total income for income tax purposes and, accordingly, are taken into account in calculating relevant income in pursuance of paragraph (1).

(4) Where a child (other than the assisted pupil) who is wholly or mainly dependent on the parents or on payments made to him or for his benefit by one or both of them is the holder of an award of a kind described in paragraph (5) and there has been deducted, in calculating the amount of that award, a sum exceeding £1,000 in respect of the parental contribution which is assumed to be available as part of the resources of that child, that sum shall be deducted from the relevant income in lieu of the £1,000 prescribed in respect of that child by paragraph (3).

(5) The awards referred to in paragraph (4) are—

- (a) a mandatory award paid by a local education authority in England or Wales pursuant to regulations from time to time in force under section 1 of the Education Act 1962(b) providing for the payment of awards to students attending specified courses of further or higher education(c);
- (b) an allowance granted by the Secretary of State for Scotland pursuant to regulations from time to time in force or having effect under sections 73 and 74 of the Education (Scotland) Act 1980(d) providing for the payment of allowances to students(e);
- (c) an award made by—
 - (i) an education and library board in Northern Ireland pursuant to article 50 of the Education and Libraries (Northern Ireland) Order 1986(f) and regulations from time to time in force thereunder(g), being an award for the purpose of enabling or encouraging the holder to take advantage of educational facilities specified in or designated under such regulations; or

(a) 1988 c.1.

(b) 1962 c.12; section 1 was substituted by Schedule 5 to the Education Act 1980 (c.20) and amended by section 4 of the Education (Grants and Awards) Act 1984 (c.11).

(c) The Regulations in force at the date on which these Regulations were made were the Education (Mandatory Awards) Regulations 1988 (S.I. 1988/1360), amended by S.I. 1989/352.

(d) 1980 c.44.

(e) The Regulations in force at the date on which these Regulations were made were the Students’ Allowances (Scotland) Regulations 1987 (S.I. 1987/864), as amended by S.I. 1988/1424. The administrative arrangements for assessing assumed parental contributions were set out in the “Guide to Students’ Allowances 1989 90” (Form AB2) published in April 1989 by the Scottish Education Department, copies of which are obtainable from the Scottish Education Department, Awards Branch, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH.

(f) S.I. 1986/594 (N.I. 3).

(g) The Regulations in force at the date on which these Regulations were made were the Students Awards Regulations (Northern Ireland) 1988 (S.R. (N.I.) 1988 No. 445).

- (ii) the Department of Education for Northern Ireland pursuant to article 51 of the said Order and regulations from time to time in force thereunder^(a) being an award in respect of attendance at a course for the training of teachers.

(6) In this Regulation any reference to the parents of an assisted pupil is a reference to the persons who are his parents at the time the relevant income is calculated.

General provisions relating to remission

12.—(1) The parents of an assisted pupil shall not be entitled to any remission of fees for which they are liable in respect of a period before the pupil took up his assisted place or (in lieu of notice or otherwise) after he has left the school or, if he so remains at the school, after the end of the school year in which he attains the age of 20 years.

(2) The parents of an assisted pupil shall not be entitled to any remission of fees which are required to be paid in pursuance of an order of a court.

(3) The parents of an assisted pupil shall be under no obligation to apply for remission of fees as respects a particular school year if they consider themselves not entitled thereto but if, as respects such a year, they do not—

- (a) duly apply to the school for remission of fees payable for that year, or
- (b) subject to Regulation 14(4), duly furnish the school with the information and supporting evidence requisite for determining remission questions,

they shall not be entitled to any remission of fees for that year.

(4) If the Secretary of State is satisfied that, in the case of a particular assisted pupil, his parents have furnished information required for determining remission questions which they know to be false in a material particular, or have recklessly furnished such information which is false in a material particular, he may direct that those parents shall not be entitled to any remission of fees in the case of that pupil and, if he so directs, in the case of any other of their children who are assisted pupils, as respects a specified school year and, if he so directs, any subsequent school year:

Provided that—

- (a) the Secretary of State shall not give a direction hereunder without affording the parents concerned an opportunity to make representations or without considering such representations;
- (b) the giving of a direction hereunder shall be without prejudice to its variation or revocation by a subsequent direction.

(5) This Regulation shall have effect notwithstanding anything in Regulation 13 or any other provision of these Regulations.

Determination of remission questions

13.—(1) Subject to paragraph (2), in the case of each assisted pupil remission questions shall be determined by the school, in accordance with this Part, for each school year, whether or not the parents have been entitled to any remission as respects a previous school year.

(2) Where either—

- (a) the pupil holds an assisted place at the school for part only of the school year or leaves the school part way through the school year; or
- (b) the number of children of the parents who hold assisted places differs for different parts of the school year,

the said questions shall be determined by the school for that part, or separately for those parts, and the extent to which fees in respect of part of a school year are to be remitted shall be that proportion of the amount by which the fees for the whole school year would fall to be remitted which is the proportion which the fees for the part bear to the fees for the whole school year.

^(a) The Regulations in force at the date on which these Regulations were made were the Students Awards Regulations (Northern Ireland) 1988 (S.R. (N.I.) 1988 No. 445).

Calculation of remission

14.—(1) Subject to paragraphs (2), (3) and (4), remission questions shall be determined by reference to relevant income in the preceding financial year.

(2) Where one of the pupil's parents has died after remission questions have been determined but before the end of the current financial year and the school are satisfied that the income of the surviving parent in that year, when aggregated with that of the deceased parent, is likely to be less than their aggregated income in the preceding financial year, the remission questions shall be redetermined by reference to the current financial year: and in such case, paragraph (1) shall have effect as if the reference therein to the preceding financial year were a reference to the current financial year and the reference to the pupils' parents in paragraph (2) of Regulation 11 included a reference to the deceased parent (notwithstanding the provision of paragraph (6) of that Regulation).

(3) This paragraph shall apply in a case not falling within paragraph (2) if—

- (a) the school are satisfied that the relevant income in the current financial year is, as a result of some event beyond the control of the pupil's parents, likely to be not more than 85% of the relevant income in the preceding financial year, or
- (b) the school, though not satisfied as aforesaid, are satisfied that the relevant income in the current financial year is likely to be so much less than the relevant income in the preceding financial year that financial hardship would result from remission questions being determined by reference to that year and the Secretary of State approves the application of this paragraph;

and, in a case in which this paragraph applies, remission questions shall be determined in relation to the school year in question and, unless and until the Secretary of State otherwise directs, any subsequent school year by reference to the current financial year and, in such case, paragraph (1) shall have effect as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where it is not reasonably practicable for the parents to furnish, before the beginning of a school year, the requisite information as to relevant income for the appropriate financial year then, in relation to that school year, remission questions may be determined provisionally, having regard to relevant income for earlier financial years, as the school think fit but—

- (a) no such provisional determination shall be more favourable to the parents than one arrived at by reference to an estimate furnished by the parents of relevant income for the appropriate financial year;
- (b) a provisional determination shall cease to have effect when the parents have furnished the requisite information or if the school are satisfied that it has become reasonably practicable for them to do so but they have failed to furnish it, and
- (c) within three months of the final determination of the remission questions any over-remission or under-remission of fees shall be adjusted by payments between the parents and the school.

Scales of remission

15. Fees shall be remitted in accordance with the provisions of Schedule 2 to these Regulations.

PART IV

ADMINISTRATIVE ARRANGEMENTS

Time limits, forms, etc.

16. The Secretary of State may specify for the purposes hereof—

- (a) the time by which, and the manner and form in which, applications, declarations of relevant income or estimated income and other information requisite for the purposes of these Regulations are to be made or furnished to a school by the parents of an assisted pupil, or by parents applying for an assisted place, and the documentary or other evidence to be provided in support thereof;

- (b) the time by which, and the manner and form in which, a school are to notify the parents of an assisted pupil as to whether they are entitled to any remission of fees for a particular school year and, if so, the extent of remission.

Reimbursement claims

17.—(1) Claims for the reimbursement of fees remitted in pursuance of these Regulations or regulations revoked by Regulation 24(1) (“reimbursement claims”) may be submitted to the Secretary of State by a school in respect of such periods, not being less than a term, as appear to them appropriate and, with his consent, claims may be submitted on the basis of an estimate of fees so remitted (“provisional claims”); but, where a provisional claim is submitted, the school shall, as soon as is reasonably practicable, submit a reimbursement claim in respect of the period in question which is not based on such an estimate and that claim shall supersede the provisional claim.

(2) As soon as is reasonably practicable after he is satisfied as respects a reimbursement claim, the Secretary of State shall reimburse the school in pursuance of the claim without prejudice, however, where he considers it expedient so to do, to his making earlier payments on account in pursuance of the claim or in pursuance of a provisional claim in respect of the same period.

(3) Any over-payment or under-payment by way of reimbursement which appears to the Secretary of State to have occurred shall be adjusted as soon as is reasonably practicable by payments between the Secretary of State and the school concerned.

(4) Subject to the preceding provisions of this Regulation, reimbursement claims shall be made at such times, in such manner and form and be supported by such declarations and other information, as the Secretary of State may require.

PART V

MISCELLANEOUS REQUIREMENTS

Publication of information

18.—(1) Each school shall publish—

- (a) particulars of the assisted places scheme;
- (b) annual particulars of the number of assisted places likely to be offered in the year in question together with information as to the making of applications therefor and as to arrangements for selection, admission and fee remission;
- (c) information as to the public examinations for which pupils at the school are entered and as to the results obtained by such pupils, being information which is required to be published, in the case of a school maintained by a local education authority, by section 8(5) of the Education Act 1980 and regulations from time to time in force thereunder(a); and
- (d) such other information as may be specified for the purposes hereof by the Secretary of State.

(2) Subject to any directions given by the Secretary of State for the purposes hereof, either generally or in the case of a particular school, anything required to be published under paragraph (1) shall be published in such manner, and at such time or times, as appears to the school appropriate for the purpose of bringing the particulars or information to the attention of parents likely to be interested therein.

Proportion of pupils from publicly maintained schools

19.—(1) Subject to paragraph (3), in selecting pupils to take up assisted places in any school year, a school shall select pupils from publicly maintained schools and from other schools in such proportion as appears to them likely to ensure that at least 60 per cent

(a) The Regulations in force at the date on which these Regulations were made were the Education (School Information) Regulations 1981 (S.I. 1981/630), amended by S.I. 1983/41 and 1988/1023.

of the total number of assisted pupils at the school in that school year will be pupils from publicly maintained schools.

(2) Any reference in paragraph (1) to a pupil from a publicly maintained school is a reference to a pupil from—

- (a) a school maintained by a local education authority,
- (b) a school under the management of an education authority in Scotland,
- (c) a grant-aided school in Northern Ireland within the meaning of the Education and Libraries (Northern Ireland) Order 1972(a), or
- (d) a school maintained by the Secretary of State for Defence,

who, at the time of his selection for an assisted place (or consideration for selection), was attending such a school and has so attended for a continuous period including at least the whole of the previous school year so, however, that where the school is a grant-aided grammar school in Northern Ireland no fees were payable in respect of his attendance.

(3) On application in that behalf made by a particular school the Secretary of State may modify or dispense with the requirement in paragraph (1) as respects a year specified by him but he may attach such conditions as he thinks fit to any such modification or dispensation.

Fees, etc., payable

20.—(1) In the case of an assisted pupil—

- (a) the fees charged by a school shall not include a sum to be paid into a bursary or similar fund, and
- (b) the school shall not make it a condition of his attendance that any payment otherwise than in respect of fees be made to the school or into a fund specified by the school.

(2) The fees for assisted pupils for any school year (other than entrance fees for public examinations) shall be payable in respect of each term and, subject to any increase in fees in the course of the school year, the fees payable in respect of each term shall be a third of those payable for the whole of that year.

(3) This Regulation shall have effect subject to any provisions relating to fees in the participation agreement.

Increase in fees

21. A school shall not increase the fees for assisted pupils unless they have given the Secretary of State at least one month's written notice of their intention so to do and, if within fourteen days of receiving such notice the Secretary of State so directs, shall refrain from making, postpone or restrict the amount of the increase, as he may then or subsequently require.

Returns, etc., required by the Secretary of State

22. A school shall furnish the Secretary of State with such periodic returns and information as he may require relating to the school or assisted pupils thereat including, in particular, information relevant to an intended increase in fees for assisted pupils.

School accounts

23.—(1) The accounts of a school shall—

- (a) if the Secretary of State so requires, be kept in a form specified by him;
- (b) be audited by an independent auditor.

(a) S.I. 1972/1263 (N.I. 12); relevant amending instruments are S.I. 1978/1040 (N.I. 10) and 1984/1156 (N.I. 6).

(2) At the request of the Secretary of State, a school shall furnish him with copies of their accounts for such periods as he may specify together with copies of the auditor's certificate relating thereto.

PART VI

REVOCATION AND TRANSITIONAL PROVISIONS

Revocation and transitional provisions

24.—(1) The Regulations specified in Schedule 3 are hereby revoked.

(2) Any reimbursement of fees remitted in pursuance of regulations revoked by paragraph (1) shall be calculated as if those regulations had not been revoked.

SCHEDULE 1

COMPUTATION OF INCOME

Regulation 11

1.—(1) This Schedule shall have effect for the purposes of determining a person's income for the purposes of these Regulations by reference to his total income.

(2) In this Schedule any reference to the Act of 1988 is a reference to the Income and Corporation Taxes Act 1988(a).

2. Where any income of a person is not part of his total income by reason only that—

- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or
- (b) the income does not arise in the United Kingdom, or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any enactment,

his income for the purposes of these Regulations shall be computed as though the income first mentioned in this paragraph were part of his total income.

3. In so far as in ascertaining a person's total income any deductions fall to be made—

- (a) by way of personal reliefs provided for in Chapter I of Part VII of the Act of 1988, other than in section 265 thereof (relief for blind persons);
- (b) in pursuance of Chapters I, II, III and V of Part XIV of the Act of 1988 so far as applicable in respect of superannuation or other payments made by a person, or in respect of deductions made from his salary, for the purpose of securing the payment to or in respect of him of pensions, annuities or other future benefits;
- (c) in pursuance of section 639(1) of the Act of 1988 (relief for contributions to personal pension schemes);
- (d) in respect of payments by way of relevant loan interest within the meaning of section 370 of the Act of 1988;
- (e) in pursuance of section 353(1) and (3) of the Act of 1988 in respect of interest payments eligible for relief under that section by virtue of sections 354(1) to (4) and (7), 355(5) and 367(1) and (2) of that Act and sections 355(1) to (3) and 356 of that Act (loan for purchase or improvement of land) or by virtue of section 365 of that Act (loan to buy life annuity);
- (f) in respect of any sums paid under a deed of covenant otherwise than to a child of the person concerned who is wholly or mainly dependent upon him;
- (g) in pursuance of section 193(1) of the Act of 1988 in respect of earnings from work done abroad;
- (h) in pursuance of section 617(5) of the Act of 1988 (relief for Class 4 contributions);

(a) 1988 c.1, as amended by the Finance Act 1988 (c.39), Schedule 13, paragraph 6, and Schedule 14, Parts IV, V and VIII.

- (i) in pursuance of sections 574, 575 and 576 of the Act of 1988 (relief for losses on unquoted shares in trading companies);
- (j) in pursuance of Chapter III of Part VII of the Act of 1988 (relief for investment in corporate trades);
- (k) in pursuance of section 202(1) to (7) and (11) of the Act of 1988 (relief for donations under payroll deduction scheme); or
- (l) in pursuance of regulations made under section 333 of the Act of 1988 (relief for investments under personal equity plans),

his income for the purposes of these Regulations shall be computed as though those deductions did not fall to be made.

4. There shall be left out of account, in computing a person's total income for the purpose of these Regulations, any allowance paid to him by an adoption agency pursuant to a scheme approved by the Secretary of State under section 50(4) of the Adoption Act 1958(a) and any contributions paid to him by a local authority pursuant to section 34(6) of the Children Act 1975(b).

5.—(1) Where any income of a person includes a maintenance payment, his income for the purposes of these Regulations shall be computed as though such payment were part of his total income, whether or not such payment or any part of it would be included in his total income for tax purposes.

(2) Where any person makes a maintenance payment, his income for the purposes of these Regulations shall be computed as though such payment were not part of his total income, whether or not such payment or any part of it would be deductible for tax purposes.

(3) For the purposes of sub-paragraphs (1) and (2) of this paragraph, "maintenance payment" means a periodical payment (not including an instalment of a lump sum) which—

- (a) is made under an order made by a court (whether in the United Kingdom or elsewhere) or under a written agreement, and
- (b) is made by one of the parties to a marriage (including a marriage which has been dissolved or annulled) either—
 - (i) to or for the benefit of the other party and for the maintenance of the other party, or
 - (ii) to the other party for the maintenance by the other party of any child of the said parties, or
 - (iii) to a child of the said parties for his own maintenance, benefit or education, and
- (c) is due at a time when the said parties are not a married couple living together, and in that connection a married woman shall be treated as living with her husband unless they are separated under an order of a court of competent jurisdiction, or by deed of separation.

(a) 1958 c.5 (7 & 8 Eliz. 2); section 50(4) was inserted by section 32 of the Children Act 1975 (c.72).

(b) 1975 c.72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22).

SCALES OF REMISSION

1. Where the relevant income for the appropriate financial year does not exceed £7,584 the fees shall be wholly remitted.

2. In any other case, the fees for a school year in respect of each assisted pupil shall be remitted to the extent (if any) necessary to secure that the parents' residual liability for that pupil's fees is of an amount (rounded down to the nearest multiple of £3) equal to the aggregate of the specified percentages of those parts of the relevant income referred to in column (1) of the following Table, being the percentages—

- (a) specified opposite those parts in column (2), where only one child of the parents is an assisted pupil;
- (b) so specified in column (3) or (4) where two or three children of the parents (as the case may be) are assisted pupils (whether at the same or different schools);
- (c) specified for the purposes hereof by the Secretary of State, where more than three children of the parents are such pupils.

TABLE

(1) <i>Part of relevant income to which specified percentage applies</i>	(2) <i>Only assisted pupil</i>	(3) <i>Each of two assisted pupils</i>	(4) <i>Each of three assisted pupils</i>
That part which exceeds £7,418 but does not exceed £8,066	9%	6.75%	5.25%
That part (if any) which exceeds £8,066 but does not exceed £8,725	12%	9%	7%
That part (if any) which exceeds £8,725 but does not exceed £10,032	15%	11.25%	8.75%
That part (if any) which exceeds £10,032 but does not exceed £12,043	21%	15.75%	12.25%
That part (if any) which exceeds £12,043 but does not exceed £14,668	24%	18%	14%
That part (if any) which exceeds £14,668	33%	24.75%	19.25%

3. Where the parents of an assisted pupil also have a child who is an aided pupil by virtue of a grant paid pursuant to regulations from time to time in force under section 100 of the Education Act 1944(a) to a school of music or ballet(b), the parents' residual liability for the fees of the assisted pupil shall be calculated pursuant to paragraph 2 above as if their child who is an aided pupil were an assisted pupil for the purposes of that paragraph.

SCHEDULE 3

REVOCATION

<i>Regulations revoked</i>	<i>References</i>
The Education (Assisted Places) Regulations 1985	S.I. 1985/685
The Education (Assisted Places) (Amendment) Regulations 1986	S.I. 1986/991
The Education (Assisted Places) (Amendment) Regulations 1987	S.I. 1987/1312
The Education (Assisted Places) (Amendment) Regulations 1988	S.I. 1988/1210

(a) 1944 c.31; section 100(1)(b) was amended by section 213(3) of the Education Reform Act 1988 (c.40).

(b) The Regulations applicable at the date when these Regulations were made were the Education (Grants) (Music and Ballet Schools) Regulations 1989 (S.I. 1989/1236).

21st July 1989

Kenneth Baker
Secretary of State for Education and Science

21st July 1989

Peter Walker
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with amendments, the Education (Assisted Places) Regulations 1985 which, with regulations amending them, are revoked by Regulation 24(1). They come into force on 12th August 1989 and apply in relation to a school year beginning on or after that date (Regulation 1). Changes of substance were described below.

The Regulations relate to the scheme for assisted places at independent schools which was required to be established by section 17 of the Education Act 1980. The Regulations which they supersede have been reviewed by the Secretary of State, in consultation with bodies representing participating schools, as required by section 17(9) of the 1980 Act.

Part II of the Regulations deals with eligibility for assisted places.

In Part III, dealing with remission of fees, Regulation 11 has been amended to increase from £950 to £1,000 the deduction for dependent children and relatives which is to be made from "relevant income" (as defined in that Regulation).

However, where another child of the parents is the holder of a specified award paid by a local education authority in England or Wales, the Secretary of State for Scotland, the Department of Education for Northern Ireland or an education and library board in Northern Ireland to enable that child to attend a course of further or higher education and the award has been reduced by a sum exceeding £1,000 on account of the assumed parental contribution to that child's resources, that sum is to be deducted instead (Regulation 11(2) and (4)).

Parts IV and V (administrative arrangements and miscellaneous requirements) are unchanged.

Schedule 1 deals with computation of a person's income by reference to his "total income" (as defined in Regulation 11). Where a person's income includes a maintenance payment (as defined in Schedule 1, paragraph 5(3)), his income is to be computed as if that income were part of his total income, whether or not it would be included in his total income for tax purposes. Where a person makes such a maintenance payment, his income is to be computed as if such payment were not part of his total income, whether or not it would be deductible for tax purposes. (Schedule 1, paragraph 5.)

The extent of remission is determined by reference to relevant income, and the scales of remission, now set out in Schedule 2, have been amended. The level of relevant income at or below which fees are to be wholly remitted is increased from £7,258 to £7,584, with corresponding increases in the extent of remission where relevant income exceeds that sum (Schedule 2, paragraphs 1 and 2).