
STATUTORY INSTRUMENTS

1990 No. 1628

The Education (Mandatory Awards) Regulations 1990

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Mandatory Awards) Regulations 1990 and shall come into force on 1st September 1990.

Definitions

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

“academic authority” means, in relation to an establishment, 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 an award bestowed under previous Awards Regulations, **and either a fees only award or a full award bestowed under these Regulations;**

“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;

“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;

“**European student**” means a person who is a national of a member state of the European Community or the child of such a national and has been ordinarily resident within the Community (excluding the British Islands) throughout the period of three years before the commencement of his course, but who is not entitled to a full award by virtue of regulation 7;

“establishment” means a university or establishment of higher education in the United Kingdom, and “establishment of further education” excludes a university but includes an establishment which also provides higher education;

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

“**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;

“highest-cost country” means Denmark, Finland, Japan, Norway, Sweden, Switzerland and **Taiwan**;

“higher-cost country” means **Australia**, Austria, Belgium, **Iceland**, the Republic of Ireland, France, the Federal Republic of Germany, and the Netherlands . . .;

“high-cost country” means Canada, Hong Kong, Indonesia, Italy, Luxembourg, **New Zealand**, the USSR and the **United States of America**;

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

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

“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 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⁽¹⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽²⁾ or a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty’s government though not so recognised, 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 or grant which is paid out of moneys provided by Parliament;

“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 or 1st September according as the academic year of the course in question begins in the spring, the summer or the autumn respectively; and references to the first 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.

(1) Comnd. 9171.

(2) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Further and Higher Education Branch 3, Room 9/1, the Department of Education and Science, Elizabeth House, York Road, London SE1 7PH).

(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) the student was in receipt of training in pursuance of the Training Opportunities Programme, the Youth Opportunities Programme, or the Youth Training Scheme of the Manpower Services Commission or the Training Commission as the case may be; or
- (b) the student was in receipt of unemployment benefit under section 14(1)(a) of the Social Security Act 1975(3); or
- (c) before 24th November 1980 (when Schedule 2 to the Social Security Act 1980(4) came into force), the student was registered for employment; or
- (d) on and after that date but before 18th October 1982, the student was registered and available for employment; or
- (e) on and after 18th October 1982, the student was available for employment and, if under the age of 18 years, registered for employment; or
- (f) the student held a State Studentship or comparable award; or
- (g) the student received sickness benefit, invalidity pension, maternity allowance or severe disablement allowance under section 14(1)(b), 15(1)(b), 22(1) or 36(1) of the Social Security Act 1975 as originally enacted or as amended(5) or statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(6) or statutory maternity pay under Part V of the Social Security Act 1986(7); or
- (h) 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) In this regulation—

- (a) any reference to a person registered or available for employment is a reference to his being so registered or available for the purposes of section 5 of the Supplementary Benefits Act 1976(8) or **section 20 of the Social Security Act 1986(9)**;
- (b) any reference to an enactment contained in the Supplementary Benefits Act 1976 or the Social Security Act 1975 is a reference to that enactment as from time to time in force and includes, in relation to a period before the coming into force of the enactment in question, a reference to the corresponding enactment then in force;
- (c) “parent” shall have the same meaning as in Part 2 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)(ii) or (iii), any reference to a course shall be construed as a reference to either a course of full-time study or a sandwich course.

(3) 1975 c. 14.

(4) 1980 c. 30.

(5) Section 36 was substituted by section 11 of the Health and Social Security Act 1984 (c. 48); a new section 22 was substituted by paragraph 13 of part II of Schedule 4 to the Social Security Act 1986 (c. 50); section 15(1)(b) was amended by paragraph 5(1) of Schedule 1 to the Social Security Act 1989 (c. 24).

(6) 1982 c. 24.

(7) 1986 c. 50.

(8) 1976 c. 71; a new section 5 was substituted by section 38(1) of the Social Security and Housing Benefits Act 1982 (c. 24); section 5 was repealed with effect from 11th April 1988 by Schedule 11 to the Social Security Act 1986 (c. 50).

(9) 1986 c. 50.

(2) In these Regulations any reference to a first degree course, a Dip HE course, a course of initial training for teachers, or a course comparable to a first degree 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.

- (a) (4) (a) In the case of a student who began his course before 1st April 1989 any reference to a course of higher education is a reference to a course listed in paragraph 2 of Schedule 2 to the Education (Schools and Further Education) Regulations 1981⁽¹⁰⁾ as in force on 31st March 1989;
- (b) In the case of a student who begins his course on or after 1st April 1989, any reference in these Regulations to a course of higher education shall be construed in accordance with section 120(1) of the Education Reform Act 1988⁽¹¹⁾.

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 in respect of the student by virtue of regulation 24(2).

(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 within the meaning of the Income Tax Acts (the necessary apportionment being made in any case where the relevant provisions of those Acts 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 9(2)(a) or 13, as ordinarily resident in England and Wales, in the British Islands or in the European Community, . . . if the authority are satisfied that he would have been so resident at the relevant time but for the fact that he, his spouse or his parent, guardian or any other person having actual custody of him during his minority, is, or was, temporarily employed outside England and Wales, outside the British Islands or, as the case may be, outside the European Community . . . and paragraph (1)(b) of regulation 13 shall not apply in the case of such a person.

(5) 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 1989⁽¹²⁾ . . . are hereby revoked.

(2) Subject to paragraph (6) and without prejudice to section 17(2)(b) of the Interpretation Act 1978⁽¹³⁾ and the definition of "award" in regulation 2, an 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.

⁽¹⁰⁾ S.I.1981/1086, to which there were amendments not relevant to these Regulations. Schedule 2 to the Regulations is revoked by the Education (Schools and Further and Higher Education) Regulations 1989 (S.I. 1989/351).

⁽¹¹⁾ 1988 c. 40.

⁽¹²⁾ S.I. 1989/1458.

⁽¹³⁾ 1978 c. 30.

(3) Where the current academic year of a student's course began in the spring or summer of **1990** then, notwithstanding anything in these Regulations, payments in pursuance of his award in respect of the year beginning on 1st January or, as the case may be, 1st April **1990** 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 **1989** 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 **1990** under these Regulations had the academic year of his course begun in the autumn of **1990** .

(4) 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) and for the purposes of regulation 23; 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.

(5) The Education (Students' Dependants Allowances) Regulations 1983(**14**) revoked by the Education (Mandatory Awards) Regulations 1987(**15**) shall continue to have effect in relation to an allowance payable or paid thereunder in respect of a period falling before 1st September 1987.

(6) An award bestowed under previous Awards Regulations upon a person mentioned in regulation 9(2)(b) or (c) of the Education (Mandatory Awards) Regulations 1987 but not mentioned in regulation 9(2)(b) of these Regulations shall, in so far as it could otherwise have been bestowed in pursuance of these Regulations, for the purposes thereof, be treated as having been so bestowed.

(14) S.I. 1983/1185, as amended by S.I. 1984/1179, 1985/1160 and 1986/1325.

(15) S.I. 1987/1261.