
STATUTORY INSTRUMENTS

1994 No. 3044

The Education (Mandatory Awards) Regulations 1994

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Mandatory Awards) Regulations 1994 and shall come into force on 1st September 1995.

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;

“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 to Oporto on 2nd May 1992(1) as adjusted by the Protocol signed at Brussels on 17th March 1993(2);

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

“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 Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden, from such

(1) Cmnd. 2073.

(2) Cmnd. 2183.

date as the EEA Council, established by Article 89 of the EEA Agreement, determines that that Agreement shall enter into force as regards the Principality of Liechtenstein, 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 and has been ordinarily resident within the European Economic Area 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;

“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, Iceland, Japan, Norway, Sweden, Switzerland and Taiwan;

“higher-cost country” means Austria, Belgium, Hong Kong, . . . France, the Federal Republic of Germany, the Republic of Korea and the Netherlands;

“high-cost country” means Australia, Canada, Indonesia, the Republic of Ireland, Israel, Italy, Luxembourg, . . . countries of the former Soviet Union, Spain and the United States of America;

“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;

“overseas institution” means an educational institution in a country 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 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⁽⁴⁾ as extended by the protocol thereto which entered into force on 4th October 1967⁽⁵⁾ 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;

“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;

(3) 1994 c. 30.

(4) Cmd. 9171.

(5) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Higher Education Branch, Room 1A3, the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT).

“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.
- (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, the Youth Training Scheme of the Manpower Services Commission or the Training Commission as the case may be or any scheme run by the Training and Enterprise Councils or the Local Enterprise Companies; or
 - (b) the student was in receipt of unemployment benefit under section 25(1) of the Social Security Contributions and Benefits Act 1992(6); or
 - (c) the student was available for employment and, if under the age of 18 years, registered for employment; or
 - (d) the student held a State Studentship or comparable award; or
 - (e) the student received incapacity benefit under section 30A, sickness benefit under section 31(1), maternity allowance under section 35(1), severe disablement allowance under section 68(1), invalidity pension under section 33(1)(b), 40(3) or 41(2), statutory sick pay under Part XI, or statutory maternity pay under Part XII, of the Social Security Contributions and Benefits Act 1992(7); 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) 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 124 of the Social Security Contributions and Benefits Act 1992; and
 - (b) “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

(6) 1992 c. 4.

(7) 1992 c. 4; section 30A is inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 1; sections 31 to 34 are repealed by Schedule 2 to that Act; sections 40 and 41 are substituted by paragraphs 8 and 9 of Schedule 1 to that Act.

(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).

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.

(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⁽⁹⁾ as in force on 31st March 1989;
- (b) In the case of a student who began 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⁽¹⁰⁾.

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(7).

(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 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 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 Economic Area and paragraph (1)(b) of regulation 13 shall not apply in the case of such a person.

(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
- (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 area of the European Economic Area.

(6) 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.

⁽⁹⁾ [S.I. 1981/1086](#), to which there were amendments not relevant to these Regulations. Schedule 2 to the Regulations was revoked by the Education (Schools and Further and Higher Education) Regulations 1989 ([S.I. 1989/351](#)).

⁽¹⁰⁾ [1988 c. 40](#).

Revocations and transitional provisions

6.—(1) The Education (Mandatory Awards) (No. 2) Regulations 1993⁽¹¹⁾, the Education (European Economic Area) (Amendment) Regulations 1993⁽¹²⁾, the Education (Mandatory Awards) (Amendment) Regulations 1994⁽¹³⁾, and the Education (Mandatory Awards) (Amendment) (No. 2) Regulations 1994⁽¹⁴⁾, are hereby revoked.

(2) ... Without prejudice to section 17(2)(b) of the Interpretation Act 1978⁽¹⁵⁾ 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.

(3) Subject to paragraph (4), where the current academic year of a student’s course began in the winter or spring of 1995 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 1995 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) (No. 2) Regulations 1993 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 1995 under these Regulations had the academic year of his course begun in the autumn of 1995.

(4) In the case of a course at the University of Buckingham beginning in the winter, spring or summer of 1995 then, notwithstanding anything in these Regulations, payments in pursuance of an 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) (No. 2) Regulations 1993 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 1995 under these Regulations had the academic year of the course begun in the autumn of 1995.

(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) 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.

(6) Where an award has been bestowed pursuant to previous Awards Regulations before the coming into force of these Regulations 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 (“the 1993 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.

(11) S.I. 1993/2914.

(12) S.I. 1993/3183; regulation 5 is repealed on 1st January 1995 by the Education (Fees and Awards) Regulations 1994 (S.I. 1994/3042).

(13) S.I. 1994/1606.

(14) S.I. 1994/3043.

(15) 1978 c. 30.

PART II

AWARDS

Duty to bestow an award

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

(1) 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 1995 if 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;

(2) where paragraph (1) does not apply, a fees only award in respect of a person's attendance at a designated course at an institution in England or Wales during an academic year beginning after the 31st August 1995 if the person is a European student and the institution at which he attends his course is within the area of the authority.

Modification of provisions for determining ordinary residence

8.—(1) This regulation shall have effect for modifying paragraph 2 of Schedule 1 to the Education Act 1962 in the case of 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 twelve months ending with the date of the beginning of the course.

(2) Any such person as is described in paragraph (1) 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.

No area students

9. . . . A person who—

- (a) is entitled to the payment of an award by virtue of Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community as extended by the EEA Agreement⁽¹⁶⁾,
- (b) is treated as ordinarily resident in the British Islands pursuant to regulation 5(4), or
- (c) is mentioned in regulation 13(3)(a) or (b)(i),

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

. . .

Designated courses

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

- (a) a first degree course, that is to say—
 - (i) a course provided by a publicly funded institution for a first degree or for the degree of Bachelor of Medicine or an equivalent degree;

⁽¹⁶⁾ OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968 (II) p. 475).

- (ii) a course provided by the University of Buckingham for a first degree of that university;
 - (iii) an international course, that is to say a course provided by a publicly funded institution in conjunction with an overseas institution for a first degree;
 - (iv) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for a first degree or for the degree of Bachelor of Medicine or an equivalent degree, which is for the time being designated for the purposes of this provision by the Secretary of State;
- (b) a Dip HE course, that is to say—
- (i) a course provided by a publicly funded institution for the Diploma of Higher Education; or
 - (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) a course provided by a publicly funded institution for the Higher National Diploma or the Higher National Diploma of the Business & Technology Education Council;
- (d) a course of initial training for teachers, that is to say—
- (i) a 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(17), 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 a week during 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 part-time or partly full-time and partly part-time, for the time being so designated;
- (e) a course comparable to a first degree course, that is to say—
- (i) a course of at least 3 academic years' duration provided by a university or universities for a certificate, diploma or other academic award; or
 - (ii) a course for the time being designated for the purposes of this provision by the Secretary of State.

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

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 recognised 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), (7), (8) and (9) 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 (ignoring any periods of unpaid service or research or of practice undertaken as part of the student's course of the kind mentioned in paragraphs (a) to (g) of paragraph 1(1) of Schedule 5 and, in the case of a sandwich course, periods of experience) exceeds two academic years (a part-time course being treated as its full-time equivalent).

(3) Subject to paragraph (8) 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(18).

(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—

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

- (i) previously attended such a course, or
 - (ii) successfully completed a course for the degree of Bachelor of Education (or a comparable 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 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.
- (6) A course is referred to in this paragraph if it is—
- (a) at an accredited institution in England and Wales for the purposes of paragraph 2(1A) of Schedule 3 to the Education (Teachers) Regulations 1993⁽¹⁹⁾, or
 - (b) approved as a course for the initial training of teachers in schools for the purposes of regulation 16(2)(a) of the Schools Regulations 1959⁽²⁰⁾, or any corresponding provision of regulations from time to time in force under section 27 of the Education Act 1980⁽²¹⁾, or section 218 of the Education Reform Act 1988⁽²²⁾.

(7) Nothing in paragraph (2) shall affect the duty of an authority to bestow an award on a person in respect of his attendance at any full-time course of initial training as a teacher of one academic year's duration, or a comparable part-time course, not within paragraph (5), 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.

(8) Where, before the coming into force of these Regulations, a student has commenced a course ("the new course") designated by or under regulation 10(1)(a)(ii), (b) or (c) and has had bestowed upon him under previous Awards Regulations an award, having previously attended one or more courses of higher education the aggregate duration of which did not exceed two academic years then, notwithstanding any other provision of these Regulations, payments shall be made in accordance with these Regulations in respect of his attendance on the new course.

(9) 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 regulations 23(3) in pursuance of section 63 of the Health Services and Public Health Act 1968⁽²³⁾, in respect of the courses referred to therein; and
- (b) has not attended any other course of higher education:

Provided that the requirements of regulation 14(1)(a) and (b), (2) and (3) are satisfied, the payments referred to in sub-paragraph (a) above being treated as an award bestowed in respect of a course.

⁽¹⁹⁾ S.I. 1993/543 amended by S.I. 1993/969 and S.I. 1994/222. Paragraph 2(1A) of Schedule 3 was inserted by section 14(2) of the Education Act 1993 (c. 30).

⁽²⁰⁾ S.I. 1959/364, revoked by S.I. 1982/106.

⁽²¹⁾ 1980 c. 20; section 27 was repealed and replaced by section 218 of the Education Reform Act 1988 with effect from 1st April 1989.

⁽²²⁾ 1988 c. 40; the regulations currently in force are the Education (Teachers) Regulations 1993 (S.I. 1993/543), as amended.

⁽²³⁾ 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) and the Health and Medicines Act 1988 (c. 49), section 20.

(10) 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.

(11) 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.

(12) 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 one course which began on the date on which the first course began and ended on the expiry of the period which he would ordinarily require for the completion of the second course.

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—

- (a) upon a person who 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 a European student or of such a person as is mentioned in regulation 9(a), who has not been so resident in the European Economic Area or, in the case of a European student, who has been so resident in the British Islands; or
- (b) upon a person whose residence in the British Islands or, in the case of a European student or of such a person as is mentioned in regulation 9(a), 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) upon a person who has, in the opinion of the authority, shown himself by his conduct to be unfitted to receive an award.

(2) Sub-paragraphs (a) and (b) of paragraph (1) shall not apply in the case of a refugee, ordinarily resident in the British Islands, who has not ceased to be so ordinarily resident since he was recognised as a refugee, in the case of the spouse or child of such a refugee, or in the case of a person mentioned in paragraph (3).

(3) That person is a person who is a British citizen within the meaning of the British Nationality Act 1981(24)—

- (a) who was not ordinarily resident in the British Islands throughout the three years preceding the first year of the course in question only because he was ordinarily resident for the purposes of employment in the European Economic Area during every part of that period in which he was not ordinarily resident in the British Islands; or
- (b) (i) who was not so resident throughout that period only because his parent is such a person as is mentioned in sub-paragraph (a), and
 - (ii) whose parent is ordinarily resident in England and Wales on the relevant day.

(4) In paragraph (3), “parent” includes a guardian or any other person having actual custody of a minor; and “relevant day” means 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.

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) subject to paragraph (2), on the recommendation of the academic authority the student commences to attend another course (“the new course”) at the institution;
- (b) subject to paragraph (2), with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the student commences to attend a course (“the new course”) at another institution;
- (c) subject to paragraph (4), 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) subject to paragraph (4), 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 award shall not be transferred in pursuance of paragraph (1)(a) or (b) unless either—

- (a) the requisite recommendation or consent is given before the expiry of four months after the end of the first year of the course in respect of which the award was originally bestowed; or
- (b) the authority are satisfied, after consulting the academic authority or authorities concerned, that the fact that the requisite recommendation or consent is given after the expiry of the period specified in paragraph (a) is due only to the need to apply through a clearing admissions system; or
- (c) the authority, after consulting the academic authority or authorities concerned, are satisfied that the period which the student in question will ordinarily require for the completion of the new course will expire not later than the period which he would now so require for the completion of the course in respect of which the award is held, ignoring—
 - (i) in each case, periods of experience which are part of a sandwich course, and
 - (ii) in case of the course in respect of which the award is held, any period during which the student would now be required by the academic authority concerned to repeat part of the course, if the authority would not make any payment for maintenance in respect of that period under regulation 25(1).

(3) 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.

(4) An award shall not be transferred in pursuance of paragraph (1)(c) or (d) so as to be held in respect of his attendance at a course for the degree of Bachelor of Education if the period which the student in question would ordinarily require for the completion of that course, when aggregated with the period for which the student has already pursued a course in respect of which the award was held, exceeds—

- (a) five years where the award would be held in respect of a course for the honours degree of Bachelor of Education; or
- (b) four years where the award would be held in respect of a course for that degree not being an honours degree;

so, however, that where the student has pursued a part-time course, for the purposes hereof account shall only be taken of that proportion of the period for which he pursued that course which the period

ordinarily required to complete the full-time course equivalent to the part-time course bears to the period so required to complete the part-time course.

(5) 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:

Provided that—

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

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

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

Supplementary provisions

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

PART III

PAYMENTS

Payments

17.—(1) Subject to paragraphs (2) and (3) and regulations 16, 22, 23, 25 and 26, the authority shall in respect of each year pay in pursuance of the 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;
- (b) in respect of maintenance—
 - (i) except in a case in which regulation 20, 21 or 22 applies, a grant calculated in accordance with regulation 18 (in these Regulations called “the maintenance grant”);
 - (ii) in a case in which one of those regulations applies (subject to regulation 20(2)) a sum or grant determined in accordance with the regulation in question;

and so much of the sum or grant referred to in sub-paragraph (b) as appears to the authority to be appropriate shall be treated as being in respect of the Easter and Christmas vacations.

(2) 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 paragraph (1) the amounts referred to in paragraph (3).

(3) The amounts to be deducted under paragraph (2) are—

- (a) from the sum payable in respect of fees under paragraph (1)(a) the amount of any instalment payable before the date on which the student became a European student or the refugee was recognised as a refugee, and
- (b) from the sum or grant payable in respect of maintenance under paragraph (1)(b) the proportion of that sum or grant which relates to the period before the date referred to in sub-paragraph (a).

Calculation of maintenance grant

18.—(1) The maintenance grant in respect of any year 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 such of the amounts specified in Schedule 2 as are applicable in his case; and
- (b) the resources of the student shall be taken to be the aggregate of his income for the year calculated in accordance with Part I of Schedule 3 and any contribution applicable in his case by virtue of Part II or III of that Schedule.

(2) 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 the student is a member of a religious order and regulation 21 applies.

(2) For the purpose of calculating payments in respect of maintenance under regulation 17(1)(b) 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 such payments 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) shall be the sum specified as appropriate in the case of the student 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 prescribed proportion of the sum so specified 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 £735.

(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—

- £1,485 if that country is a highest-cost country;
- £1,275 if that country is a higher-cost country;
- £1,075 if that country is a high-cost country; and
- £1,000 in any other case.

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 maintenance grant.

(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 study are all periods of full-time study or in which his aggregate period of full-time study is 30 weeks or more, the maintenance grant;
- (b) in a year in which the student's periods of study are all periods of part-time study, 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 study in the year, expressed in weeks, bears to 30, and
 - (ii) 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(1)(b) 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.

Assisted Students

23.—(1) Notwithstanding anything in the preceding provisions of these Regulations, no payment under regulation 17(1)(a) or (b) shall be made to a person in respect of any year in respect whereof he receives such payments as are mentioned in paragraph (2) amounting to not less than the aggregate of—

- (a) such fees are payable in respect of him—
 - (i) as are described in Schedule 1, and
 - (ii) if they are payable to an institution which is maintained or assisted by recurrent grants out of public funds, which do not exceed the maxima referred to therein; and
- (b) his requirements for maintenance ascertained in accordance with—
 - (i) Part I of Schedule 2,
 - (ii) paragraphs 5, 6 and 10 of Part II of that Schedule, and
 - (iii) Parts III and IV of that Schedule,

irrespective of whether any maintenance grant would be payable in his case by virtue of any other provision in these Regulations.

(2) The payments referred to in paragraph (1) are the aggregate payments received by the person—

- (a) in pursuance of any scholarship, studentship, exhibition or award of similar description bestowed on him in respect of the course (otherwise than in pursuance of section 1 of the Education Act 1962, or by way of a loan under the Education (Student Loans) Act 1990(25), or out of access funds held by the institution at which he attends his course); and
- (b) if he is in gainful employment, by way of remuneration (reduced by income tax and social security contributions) paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending the course;

except that, if the person's course is a part-time course of teacher training designated under regulation 10(1)(d)(iii), and some or all of his periods of study are periods of part-time study, any payments by way of remuneration shall be disregarded.

(3) Notwithstanding anything in the preceding provisions of these Regulations, no payment under regulation 17(1)(a) or (b) 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⁽²⁶⁾ in respect of a course in nursing, occupational therapy, orthoptics, physiotherapy or radiography, . . . or in pursuance of the Training for Work Scheme.

Method of payment

24.—(1) Subject to paragraph (2), 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) to (6), 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) Payment shall be made—

- (a) in the case of the fees described in paragraph (a) (excepting sub-paragraphs (iv), (vi) and (ix)) of Schedule 1, in three instalments,
- (b) in the case of the fees described in paragraph (a)(iv) of Schedule 1, in four instalments,
- (c) in the case of the fees described in paragraph (a)(ix) of Schedule 1, in one, two or three instalments depending on whether the final year of the course is ordinarily required to be completed before the first, second or third respectively of the dates 1st January, 1st April, 1st July and 1st September which follow the beginning of that year, and
- (d) in the case of the fees described in paragraph (b) of Schedule 1, in three instalments, but if the final year of the course is ordinarily required to be completed before the first or second of the dates 1st January, 1st April, 1st July and 1st September which follow the beginning of that year, in one or two instalments respectively.

(4) The instalments referred to in paragraph (3) shall be paid—

- (a) 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; and
- (b) in the case of the instalments referred to in paragraph (3)(a), and when the academic year of the course begins in the autumn, on or before 10th December in the case of the first instalment, on or before 15th February in the case of the second instalment and on or before 31st May in the case of the third instalment or within one month of the receipt by the authority of a valid request for payment, whichever is the later.

(5) Subject to paragraph (6) no fees shall be payable when the student has ceased to attend his course (whether or not the authority has been so notified) but has not completed it.

(6) Notwithstanding paragraph (5) when instalments are payable under paragraph (4)(b) the first, second or third instalment shall be payable if the student was attending the course on 15th November, 15th February or 31st May respectively.

(7) 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

(26) 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) and the Health and Medicines Act 1988 (c. 49), section 20.

- (b) where a student's maintenance requirements include any of the requirements referred to in paragraph 10 of Schedule 2, on his written instruction payment in respect of his maintenance grant may be made to a third party.

(8) 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.

Discretionary 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(1)(a) or (b) 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,

(ignoring any periods of unpaid service or research or of practice, undertaken as part of the course of the kind mentioned in paragraphs (a) to (g) in the definition of "periods of experience" in paragraph 1(1) of Schedule 5 and, in the case of a sandwich course, periods of experience) or has previously successfully completed a part-time course corresponding to such a course as is mentioned above ('the previous course'); and

(b) 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 ordinarily 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 and a subject thereof is—

(a) physics, chemistry or mathematics (or a combination of those subjects); or

(b) . . . technology; or

(c) a modern foreign language or languages; or

(d) Welsh; or

(e) 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(1)(a) or (b) in pursuance of the award in respect of the current course—

(a) where that course is ordinarily of not more than two years' duration, in respect of the final year of the student's course which, in the case of a sandwich course, includes periods of full-time study;

(b) where that course is ordinarily of a greater number of years' duration, in respect of that number less two of the final years of the student's course which, in the case of a sandwich course, includes periods of full-time study;

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(1)(a) or (b) as aforesaid.

- (5) In this regulation any reference—
- (a) to the ordinary 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 (ignoring any periods of unpaid service or research or of practice undertaken as part of the course of the kind mentioned in paragraphs (a) to (g) in the definition of “periods of experience” in paragraph 1(1) of Schedule 5 and, in the case of a sandwich course, 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(11) and (12).

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) 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 otherwise due in pursuance of the award shall be reduced by the aggregate sum mentioned in paragraph (4).

- (3) 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 28 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 otherwise due in pursuance of the award by such amount, not exceeding the aggregate sum mentioned in paragraph (4), as having regard to all relevant circumstances they consider appropriate.

- (4) The sum referred to in paragraphs (2) and (3) is the aggregate of—
- (a) fees otherwise due that are not payable by reason of the student’s non-attendance; and
 - (b) the appropriate proportion of any amount in respect of maintenance payable for a year in pursuance of regulation 17(1)(b).