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STATUTORY INSTRUMENTS

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**1995 No. 3321**

**The Education (Mandatory Awards) Regulations 1995**

**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 1996 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 1996 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<sup>(1)</sup>,
- (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

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(1) OJNo. L257, 19.10.68, p.2 (OJ/SE 1968 (II) p.475).

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;
  - (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<sup>(2)</sup>, 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.

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(2) 1994 c. 30.

(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<sup>(3)</sup>.

(5) Nothing in paragraph (2) shall affect the duty of an authority to bestow an award on a person in respect of his attendance at—

- (a) a postgraduate course for the initial training of teachers unless he has—
  - (i) previously attended such a course, or
  - (ii) successfully completed a course for the degree of Bachelor of Education (or a comparable 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<sup>(4)</sup>, 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<sup>(5)</sup> or any corresponding provision of regulations from time to time in force under section 27 of the Education Act 1980<sup>(6)</sup> or section 218 of the Education Reform Act 1988<sup>(7)</sup>

(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 regulation 23(3) in pursuance of section 63 of the Health Services and Public Health Act 1968<sup>(8)</sup> in respect of the courses referred to therein; and

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(3) [S.I. 1978/1096](#), to which there are amendments not relevant to these Regulations.

(4) [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).

(5) [S.I. 1959/364](#), revoked by [S.I. 1982/106](#).

(6) [1980 c. 20](#); section 27 was repealed and replaced by section 218 of the Education Reform Act 1988 with effect from 1st April 1989.

(7) [1988 c. 40](#); the regulations currently in force are the Education (Teachers) Regulations 1993 ([S.I. 1993/543](#)), as amended.

(8) [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

(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.

(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(9)—

- (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

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and Schedule 16, the National Health Service (Scotland) Act 1978 (c. 29), section 109, Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1, 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), section 102(2) and Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, the Local Government (Scotland) Act 1994 (c. 39), section 180(1), Schedule 13, paragraph 74(1) and (2), and the Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 95(2).

(9) 1981 c. 61.

- (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, ... .. any other person having **parental responsibility for a child and any person having care of a child**; 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 the 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.