
STATUTORY INSTRUMENTS

1997 No. 431

EDUCATION, ENGLAND AND WALES

The Education (Mandatory Awards) Regulations 1997

Made - - - - *19th February 1997*
Laid before Parliament *27th February 1997*
Coming into force - - *1st September 1997*

The Secretary of State for Education and Employment, in exercise of the powers conferred by sections 1 and 4(2) of, and paragraphs 3 and 4 of Schedule 1 to, the Education Act 1962(1), and by sections 3(1) and (3) of the Education Act 1973(2) hereby makes the following Regulations:—

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Mandatory Awards) Regulations 1997 and shall come into operation on 1st September 1997.

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;

(1) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20); section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4; section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2.
(2) 1973 c. 16.

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

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

“dependent” means wholly or mainly financially dependent;

“employment” means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding of any office and to any occupation for gain;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽³⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁴⁾;

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

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

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway, and the Principality of Liechtenstein;

“European student” means a person who is a national of a member state of the European Community or the child of such a national of **whom one or more of the exceptions relating to residence in the British Islands or settlement in the United Kingdom found in regulation 13(1) applies;**

“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, France (**excluding Départements d’Outre Mer**), the Federal Republic of Germany, Hong Kong, Israel, the Republic of Korea, Luxembourg, the Netherlands **and countries of the former Soviet Union;**

“high-cost country” means Australia, Canada, Greece, Indonesia, the Republic of Ireland, Italy, New Zealand, 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⁽⁵⁾;

“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;

(3) Cmnd. 2073.

(4) Cmnd. 2183.

(5) 1994 c. 30.

“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⁽⁶⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽⁷⁾ 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;

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

References to independent students

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

- (a) has attained the age of 25 years before the beginning of the year for which payments in pursuance of his award fall to be made; or
- (b) has supported himself out of his earnings for periods before the first year of his course aggregating not less than three years; or
- (c) has been married for at least two years before the beginning of the year for which payments in pursuance of his award fall to be made whether or not the marriage is still subsisting; or
- (d) has no parent living; **or**
- (e) **is irreconcilably estranged from his parents.**

(2) For the purposes of paragraph (1)(b) a student shall be treated as having supported himself out of his earnings for any period or periods for which—

- (a) he was participating in arrangements for training under section 2 of the Employment and Training Act 1973⁽⁸⁾, under 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⁽⁹⁾ or of a jobseeker’s allowance under Part I of the Jobseekers Act 1995⁽¹⁰⁾; 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

⁽⁶⁾ Cmnd. 9171.

⁽⁷⁾ Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Student Support Division, Room 1A10, the Department for Education and Employment, Sanctuary Buildings, Great Smith Street, London SW1P 3BT).

⁽⁸⁾ 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19), section 25(1).

⁽⁹⁾ 1992 c. 4.

⁽¹⁰⁾ 1995 c. 18.

- (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(11); or
 - (f) the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was dependent upon him.
- (3) **For the purposes of paragraph (1)(e) a student shall be regarded as irreconcilably estranged from his parents if, but not only if, he has not communicated with either one of them for the period of one year before the beginning of the year for which payments in pursuance of his award fall to be made.**
- (4) In this regulation—
- (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 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 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(12) 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(13).

General construction and interpretation

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

(11) 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; section 40 and 41 are substituted by paragraphs 8 and 9 of Schedule 1 to that Act.

(12) 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).

(13) 1988 c. 40.

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, his parent, guardian, any other person having parental responsibility for him, or any person having care of him while he is a child, is, or was, temporarily employed outside England and Wales, outside the British Islands or, as the case may be, outside the European Economic Area and paragraph (1)(b) of regulation 13 shall not apply in the case of such a person.

(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 European Economic Area.

(6) In these Regulations a reference to an EEA migrant worker is a reference to a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom—

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community, as extended by the EEA Agreement(14); or**
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the above mentioned Council Regulation.**

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

Revocations and transitional provisions

6.—(1) The Education (Mandatory Awards) Regulations 1995(15) and The Education (Mandatory Awards) (Amendment) Regulations 1996(16) are hereby revoked.

(2) Without prejudice to section 17(2)(b) of the Interpretation Act 1978(17) 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 1997 then, notwithstanding anything in these Regulations, payments in pursuance

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

(15) S.I. 1995/3321.

(16) S.I. 1996/2088.

(17) 1978 c. 30.

of his award in respect of the year beginning on 1st January or, as the case may be, 1st April 1997 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 1995 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 1997 under these Regulations had the academic year of his course begun in the autumn of 1997.

(4) In the case of a course at the University of Buckingham beginning in the winter, spring or summer of 1997 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) Regulations 1995 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 1997 under these Regulations had the academic year of the course begun in the autumn of 1997.

(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—

- (a) before 1st September 1995 in respect of a person’s attendance at a course referred to in regulation 25(3) of the Education (Mandatory Awards) (No 2) Regulations 1993⁽¹⁸⁾ (“the 1993 regulation”), or
- (b) on or after 1st September 1995 but before 1st September 1996 in respect of a person’s attendance at a course referred to in regulation 25(3) of the Education (Mandatory Awards) Regulations 1994 (“the 1994 regulation”)

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

(7) **Where—**

- (a) **an award was bestowed on a person pursuant to previous Awards Regulations in respect of his attendance at a course during an academic year beginning before 1st September 1997, and**
- (b) **the person immediately after ceasing to attend that course (disregarding any intervening vacation) begins to attend another course**

an authority shall not be excepted from the duty to bestow an award in respect of the person’s attendance at the second course by the application of the exception relating to settlement in the United Kingdom found in regulation 13(1)(c).

(18) S.I. 1993/2914.

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—

- (a) a full award in respect of a person's attendance at a designated course within the meaning of these Regulations during an academic year beginning after 31st August 1997 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;
- (b) where paragraph (a) does not apply, a fees only award in respect of a person's attendance at a designated course at an institution in England or Wales during an academic year beginning after the 31st August 1997 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.

(2) A person who, apart from this regulation, would be treated by virtue of that paragraph as having been ordinarily resident in the area of more than one authority within the period of 12 months ending with the date of the beginning of the course shall be treated as being ordinarily resident in the area of the authority in which he was so resident on the last day of the month of October, February, April, or June (according as the academic year of the course begins in the winter, the spring, the summer or the autumn respectively) preceding the beginning of the course.

(3) A person who, apart from this regulation, would be treated by virtue of that paragraph as being ordinarily resident in the area of the authority in which he attends his course as a result of having moved from Scotland, Northern Ireland, the Channel Islands or the Isle of Man to become ordinarily resident in the area of an authority for the purpose of attending his current course or such previous course as is mentioned in regulation 8 of the Education (Areas to which Pupils and Students Belong) Regulations 1996(19) shall be treated as being ordinarily resident in the place from which he has moved.

No area students

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

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;
 - (ii) a course provided by a publicly funded institution for the Diploma of Higher Education or a first degree as the student may elect after the commencement of the course;
 - (iii) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Diploma of Higher Education which is for the time being designated for the purposes of this provision by the Secretary of State;
- (c) **an HND course, that is to say—**
- (i) a course provided by a publicly funded institution for the Higher National Diploma or the Higher National Diploma of the Business & Technology Education Council;
 - (ii) **a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Higher National Diploma or the Higher National Diploma of the Business & Technology Education Council, which is for the time being designated for the purposes of this provision by the Secretary of State;**
- (d) a course of initial training for teachers, that is to say—
- (i) a 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⁽²⁰⁾, 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 full-time, part-time or partly full-time and partly part-time, for the time being so designated;
- (e) a course comparable to a first degree course, that is to say—
- (i) a course of at least 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

(20) 1994 c. 30.

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) and (7) an authority shall not be under a duty to bestow an award on any person where he has previously attended—

- (a) a course designated under regulation 10(1)(a); or
- (b) one or more courses of higher education the aggregate duration of which exceeds two academic years (a part-time course being treated as its full-time equivalent).

(3) An authority shall not be under a duty to bestow an award on any person in respect of his attendance at any course designated by or under regulation 10(1)(b) or (c) if he has previously attended any other course designated by or under regulation 10(1).

(4) A previous course shall be disregarded for the purposes of paragraph (2) if it was provided by a college providing long term residential courses of full-time education for adults which is specified in regulation 7 of the State Awards Regulations 1978(21).

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

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

- (a) a postgraduate course for the initial training of teachers unless he has—
 - (i) previously attended such a course, or
 - (ii) successfully completed a course for the degree of Bachelor of Education (or a comparable first degree or award of an institution or the Council for National Academic Awards) which is referred to in paragraph (6);
- (b) a course for the degree of Bachelor of Education (or a comparable first degree or academic award of an institution or the Council for National Academic Awards) the duration of which does not exceed two years and which is referred to in paragraph (6) unless he has previously attended—
 - (i) such a course, whether or not its duration exceeded two years, or
 - (ii) a postgraduate course for the initial training of teachers;
- (c) a full-time course of initial training as a teacher of one year's duration, or a comparable part-time course, not within sub-paragraphs (a) or (b), unless he has for more than three years held a statutory award in respect of his attendance at a full-time course of higher education or a comparable course outside England and Wales.

(6) A course is referred to in this paragraph **if the successful completion of it resulted or results in the person completing it being a qualified teacher within the meaning of section 218(2)(a) of the Education Reform Act 1988(22).**

(7) Nothing in paragraph (2) shall affect the duty of an authority to bestow an award on a person who—

- (a) attends a course having previously attended a designated course in respect of which he received payments of the kind described in regulation 23(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) and (2) are satisfied, the payments referred to in sub-paragraph (a) above being treated as an award bestowed in respect of a course.

(8) In this regulation any reference to the duration of a course is a reference to the period ordinarily required for its completion by a student who is not excused part of the course on account of his having attended a previous course, in the case of a sandwich course ignoring any periods of experience.

(9) For the purposes of this regulation a person shall not be treated as having previously attended a course by reason only of his having attended from its beginning the course to which his application for an award relates.

(10) For the purposes of this regulation a person shall only be treated as having attended a course if he has both attended and held a statutory award in respect of either more than one course or one course for a period longer than twenty weeks; and it is hereby declared that any reference to a person

(22) 1988 (c. 40).

(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), 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).

having attended a course shall be construed as a reference to his having done so before or after the coming into force of these Regulations.

(11) For the purposes of this regulation where an award has been transferred under regulation 14 the student on whom the award has been bestowed shall be treated as having attended **only the new course, and the duration of that course shall be treated as the aggregate of the period spent following the previous course and the period which the student in question would ordinarily require for the completion of the new course, in the case of either course being a sandwich course ignoring any periods of experience.**

Other exceptions

13.—(1) An authority shall not be under a duty to bestow an award in respect of a person's attendance at a course **if—**

- (a) **he** has not been ordinarily resident, throughout the three years preceding the first year of the course in question, in the British Islands or, in the case of such a person as is mentioned in paragraph (3), who has not been so resident in the European Economic Area; or
- (b) **his** residence in the British Islands or, in the case of such a person as is mentioned in paragraph (3), in the European Economic Area, has during any part of the period referred to in sub-paragraph (a) been wholly or mainly for the purposes of receiving full-time education; or
- (c) **he is not settled in the United Kingdom within the meaning of the Immigration Act 1971(24) at the beginning of the first year of the course in question, unless he is such a person as is mentioned in paragraph (3); or**
- (d) **he** has, in the opinion of the authority, shown himself by his conduct to be unfitted to receive an award.

(2) Paragraph (1)(a) **to (c)** shall not apply in the case of a refugee, ordinarily resident in the British Islands, who has not ceased to be so ordinarily resident since he was recognised as a refugee, or in the case of the spouse or child of such a refugee, **and paragraph (1)(c) shall not apply in the case of a person who—**

- (a) **has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom,**
- (b) **has been granted leave to enter or remain accordingly, and**
- (c) **has been ordinarily resident in the British Islands throughout the period since he was granted leave to enter or remain**

or in the case of the spouse or child of such a person.

(3) The person referred to in paragraph (1)(a) **to (c)** is—

- (a) a European student,
- (b) an EEA migrant worker who is entitled to the payment of an award by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement(25), **or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated**

(24) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4, by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

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

no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3);

- (c) the spouse of an EEA migrant worker who is installed in the United Kingdom with his spouse, or
- (d) the child of an EEA migrant worker who is entitled to the payment of an award by virtue of Article 12 of the above mentioned Council Regulation, **or where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12.**

(4) In paragraph (3), “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, **and “child” shall be construed accordingly**

Transfer of awards

14.—(1) An award shall be transferred by the authority at the request of a student so as to be held in respect of attendance at a course other than that in respect of which it is held in any case where—

- (a) on the recommendation of the academic authority the student commences to attend another course at the institution;
- (b) with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the student commences to attend a course at another institution;
- (c) after commencing a course for the Certificate in Education, the student is, on or before the completion of that course, admitted to a course for the degree of Bachelor of Education;
- (d) after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the student is, on or before the completion of that course, admitted to a course for the honours degree of Bachelor of Education; or
- (e) after commencing a course for a first degree (other than an honours degree) the student is, before the completion of that course, admitted to a course for an honours degree in the same subject or subjects at the institution.

(2) An authority may, after consulting the academic authority concerned, refuse the transfer of an award in pursuance of paragraph (1)(a) or (b) if they are satisfied that when the student applied for it he did not intend to complete the course to which his application related.

(3) For the purposes of the duty of an authority to transfer an award in pursuance of paragraph (1) (c) or (d) it shall be immaterial whether or not the two courses are provided by the same institution.

Termination of awards

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

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. Subject to ... 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.

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(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(b) shall be the sum specified as appropriate in the case of the student in paragraphs (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 **£675**.

(4) In the case of any other student, the appropriate sum shall be **£925** 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 **£1,160** and where he is attending a course in a country outside the United Kingdom it shall be—

- £1,335** if that country is a highest-cost country;
- £1,110** if that country is a higher-cost country;
- £900** if that country is a high-cost country; and
- £820** 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 subparagraph (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(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(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(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(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 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(26), or by way of a “Career Development Loan” in pursuance of section 2 of The Employment and Training Act 1973(27) 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(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(28), in respect of a course in nursing, occupational therapy, orthoptics, physiotherapy or radiography, in pursuance of the Training for Work Programme(29).

Method of payment

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

(2) Subject to paragraphs (3) 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 of fees described in Schedule 1 shall be made in the number of instalments, if any, mentioned therein.**

(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 (a) of the Schedule, except subparagraph (iv), 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

(26) 1990 c. 6, amended by the Education (Student Loans) Act 1996 (c. 9).

(27) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19) s.25(1); subsections (4) and (6) of that section were repealed by the Employment Act 1989 (c. 38), Schedule 7, Part I; “Career Development Loans” are made by banks to persons who are enrolled on eligible courses; they are made in pursuance of arrangements made by the Secretary of State for Education and Employment under section 2.

(28) 1968 c. 46; section 63 was amended by the National Health Service Reorganisation Act 1973 (c. 32), section 57, Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), section 129, Schedule 15, paragraph 45 and Schedule 16, the National Health Service (Scotland) Act 1978 (c. 29), section 109, Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1, 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), section 102(2) and Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, the Local Government (Scotland) Act 1994 (c. 39), section 180(1) and Schedule 13, paragraph 74(1) and (2), and The Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 95(2).

(29) The Government’s main training programme for long-term unemployed adults, operated under section 2 of the Employment and Training Act 1973 (c. 50); section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

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
- (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.

Reduced entitlement to payments

25.—(1) In respect of any period during which the student repeats any part of his course, the authority shall not be required to make any payments under regulation 17(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, or
- (b) has previously successfully completed a part-time course corresponding to such a course as is mentioned above

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

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

- (a) physics, chemistry or biology (or a combination of those subjects); or
- (b) mathematics; or
- (c) design and technology; or
- (d) information technology; or
- (e) a modern foreign language or languages; or
- (f) Welsh; or
- (g) religious education; or
- (h) 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(a) or (b) in pursuance of the award in respect of the current course—

- (a) where that course is not more than two years' duration, in respect of the final year of the student's course;
- (b) where that course is of a greater number of years' duration, in respect of that number less two of the final years of the student's course;

but, in respect of any other year of the student's current course, they may make such payments as they consider appropriate not exceeding those which would, apart from this regulation, have been payable under regulation 17(a) or (b) as aforesaid.

(5) **In paragraphs (2) and (4)** any reference—

- (a) to the duration of a course is a reference to the period ordinarily required for its completion by a student who is not excused part of the course on account of his having attended a previous course, in the case of a sandwich course ignoring any periods of experience;
- (b) to the final year or years of a student's course is, in the case of a student so excused part of the course, a reference thereto after taking account of the consequential reduction in the duration of his course; and
- (c) to a person's having attended a course shall be construed as provided in regulation 12(9) and (10).

(6) Where the authority have come under a duty to bestow an award on a person during a year because he has become—

- (a) a European student as a result of the accession of the State of which he is a national to the European Community, or
- (b) a refugee, or the spouse or child of a refugee, as a result of the recognition of him, or his spouse or parent, as a refugee,

they shall deduct from the sums and grant payable in respect of that year in pursuance of the award under regulation 17 the amounts referred to in paragraph (7).

(7) The amounts to be deducted under paragraph (6) are—

- (a) from the sum payable in respect of fees under regulation 17(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 regulation 17(b) the proportion of that sum or grant which relates to the period before the date referred to in sub-paragraph (a).

(8) **Where an award has been transferred by the authority under regulation 14(1)(a) or (b) and—**

- (a) **the requisite recommendation or consent to the transfer is given after the expiry of four months after the end of the first year of the course in respect of which the award was originally bestowed (“the previous course”), and**
- (b) **the authority are not satisfied, after consulting the academic authority or authorities concerned, that the fact that the requisite recommendation or consent was given after the expiry of the period specified in sub-paragraph (a) was due only to the need to apply through a clearing admission system, and**
- (c) **the authority are satisfied, after consulting the academic authority or authorities concerned, that the period which the student in question will ordinarily require for the completion of the course which he now attends (“the current course”) will expire**

later than the period which he would have required for the completion of the previous course

then the authority shall not make payments otherwise due under regulation 17 in respect of the current course in respect of the period mentioned in paragraph (9).

(9) The period referred to in paragraph (8) is the period which begins on the first day the student attends the current course and which ends after the number of weeks mentioned in paragraph (10).

(10) The number of weeks referred to in paragraph (9) is the difference between the number of weeks which the student in question will ordinarily require for the completion of the current course and the number of weeks which he would have required to complete the previous course.

(11) Where an award has been transferred under regulation 14(1)(c) or (d) so as to be held in respect of a student's attendance at a course for the degree of Bachelor of Education ("the current course") if the period which the student in question would ordinarily require for the completion of the current course, when aggregated with the period for which the student has already pursued a course in respect of which the award was held ("the overall period of study"), exceeds—

(a) five years where the current course is for the honours degree of Bachelor of Education; or

(b) four years where the current course is for that degree not being an honours degree ("the prescribed period of study") then the authority shall not make payments otherwise due under regulation 17 in respect of the current course in respect of the period mentioned in paragraph (12).

(12) The period referred to in paragraph (11) is the period beginning on the first day on which the student attends the current course and continues for the number of weeks mentioned in paragraph (13).

(13) The number of weeks referred to in paragraph (12) is the number of weeks by which the overall period of study exceeds the prescribed period of study.

(14) In determining the period ordinarily required to complete a course for the purposes of paragraph (8), (10) or (11) there shall be included vacations, and any period until the end of the final year of the course, but there shall be ignored—

(a) in each case, periods of experience which are part of a sandwich course, and

(b) in the case of the previous course any period during which the student would now be required by the academic authority to repeat part of the course, if the authority would not make any payments for maintenance in respect of that period under paragraph (1).

(15) For the purposes of paragraphs (8) and (11) a payment is due in respect of the period mentioned in paragraphs (9) and (12) respectively if it is—

(a) any instalment or other payment on account of fees becoming payable under regulation 17(a) during that period; or

(b) a sum or grant payable, or the proportion of a sum or grant payable, in respect of maintenance under regulation 17(b) which relates to that period.

Withholding and reduction of payments

26.—(1) Without prejudice to regulation 16, in the case of any student who is for the time being in default of any requirement to provide such information as is described in regulation 19, the authority may withhold, in part, any payment due to him in respect of maintenance and calculated or determined in accordance with regulation 18, 20, 21, or 22.

- (2) 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(b).
- (5) In determining the appropriate proportion under paragraph (4)(b) the authority shall disregard the first 28 days of any period of absence due to illness.

SCHEDULE 1

Regulations 17, 23(1) and 24(2)

FEES

The fees referred to in regulation 17(a) are—

- (a) the aggregate of any fees for admission, registration or matriculation (including matriculation exemption), any sessional or tuition fees, any composition fee, any graduation fee and, in the case of a course referred to in paragraph (vi), any fee in respect of the validation of the course (in each case excluding any element thereof representing or attributable to any such fee as is mentioned in the following sub-paragraphs, or to maintenance) subject to the following maxima:
 - (i) in the case of a course not covered by any other sub-paragraph of this paragraph, **three instalments of £250**;
 - (ii) in the case of a course with a substantial laboratory or workshop component, or a course leading to the Postgraduate Certificate in Education, or the pre-clinical elements of courses in medicine, dentistry and veterinary science, **a first and second instalment of £534** and **a third instalment of £532**;
 - (iii) in the case of the clinical training elements of courses in medicine, dentistry and veterinary science, **a first and second instalment of £934** and **a third instalment of £932**;
 - (iv) in the case of a course at the University of Buckingham, **four instalments of £570**;
 - (v) in the case of a part-time course leading to the Postgraduate Certificate in Education, or a part-time course of initial teacher training with a substantial laboratory or workshop component, **a first and second instalment of £267** and **a third instalment of £266**, and in the case of a course of initial teacher training without such a component, unless the course is partly full-time and involves more than 10 weeks' full-time attendance in the relevant year, **three instalments of £125**;
 - (vi) subject to sub-paragraph (vii), in respect of courses at institutions which are neither maintained nor assisted by grants paid out of public funds, **£910** for each academic year;
 - (vii) in the case of a course at the Guildhall School of Music, **three instalments of £1,165**, in the case of a course at Heythrop College, **three instalments of £575**, and in the case of the Royal Agricultural College, **three instalments of £530**.
 - (viii) in respect of any academic year of a sandwich course during which one or more periods of experience is undertaken but any periods of full-time study are in aggregate less than 10 weeks, **three instalments of £125** in the case of a course falling within sub-paragraph (i) above and **a first and second instalment of £267** and **a third instalment of £266** in the case of a course falling within sub-paragraph (ii) above;
 - (ix) in respect of the final year of any course covered by this paragraph (other than one covered by sub-paragraph (v) **at the Open University or covered by sub-paragraph (vi)**) which is ordinarily required to be completed before the first, the second or, in the case of a course covered by sub-paragraph (iv), the third of the dates 1st January, 1st April, 1st July and 1st September which follow the beginning of that year, the first, the first two, or the first three **of the instalments which would be payable** respectively if this paragraph did not apply.
- (b) **three instalments** of college fees or dues at the universities of Cambridge, Durham, and Oxford (excluding any element thereof representing or attributable to any such fee as is mentioned in the following sub-paragraph or to maintenance), **or, if the final year of the course is ordinarily required to be completed before the first or second of the dates**

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1st January, 1st April, 1st July or 1st September which follow the beginning of that year, one or two instalments of those fees or dues respectively;

- (c) any fees charged by an external body in respect of examinations or the validation of the course or otherwise charged by such a body whose requirements must (for the purposes of the course) be satisfied, or any fees attributable to fees so charged, but in the case of fees in respect of the validation of the course, only where the fees are charged by a body which does not have the power to award a degree or by the University of Buckingham.

SCHEDULE 2

Regulations 18, 20(2) and 23(1)

REQUIREMENTS

PART I

ORDINARY MAINTENANCE

1.—(1) The requirements of the student referred to in regulation 18(1)(a) shall include his requirement for ordinary maintenance during—

- (a) any period while he is attending the course; and
- (b) the Christmas and Easter vacations;

and the amount of such requirement (“ordinary maintenance requirement”) shall be determined in accordance with this Part of this Schedule.

(2) Where a student’s ordinary maintenance requirements are different in respect of different parts of a year, his ordinary maintenance requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

2.—(1) This paragraph shall apply in the case of—

- (a) any student who does not reside at his parents' home; and
- (b) any student residing at his parents' home whose parents by reason of age, incapacity or otherwise cannot reasonably be expected to support him and in respect of whom the authority are satisfied that in all the circumstances the ordinary maintenance requirement specified herein would be appropriate.

(2) In the case of such a student the ordinary maintenance requirement shall be **£1,755** except that—

- (a) where he is attending a course at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, it shall be **£2,160**; and
- (b) where he is attending, for at least eight weeks and as a necessary part of his course, an overseas institution, it shall (notwithstanding anything in paragraph (a)) be—
 - £3,310** if the country concerned is a highest-cost country;
 - £2,780** if the country concerned is a higher-cost country;
 - £2,255** if the country concerned is a high-cost country; and
 - £1,755** in any other case.

3. In the case of any other student the ordinary maintenance requirement shall be **£1,435**.

PART II

SUPPLEMENTARY MAINTENANCE ETC.

4. The requirements referred to in regulation 18(1)(a) shall include the student's requirements—
- (a) for supplementary maintenance in the cases and for the periods mentioned in paragraphs 5 and 6; and
 - (b) in respect of such expenditure as is mentioned in paragraphs 7 to 10;

and the amount of any such requirement ("supplementary requirement") shall be determined in accordance with this Part of this Schedule.

5.—(1) This paragraph shall apply in the case of a student who having, in any academic year, attended his course—

- (a) in the case of a course provided at the University of Oxford or Cambridge, for a period of 25 weeks 3 days; or
- (b) in the case of any other course, for a period of 30 weeks 3 days,

in that year attends a course so provided for a further period ("the excess period").

(2) In respect of each week and any part of a week comprised in the excess period the supplementary requirement shall be—

- (a) in the case of a student residing at his parents' home, **£41.90**;
- (b) in the case of any other student, **£59.80** except that—
 - (i) where he is attending a course at the University of London or at an institution within the area comprising the City of London and the Metropolitan Police District, it shall be **£79.80**;
 - (ii) where he is attending, for at least eight weeks and as a necessary part of his course, an overseas institution, it shall (notwithstanding anything in sub-paragraph (i)) be—
 - £111.70** if the country concerned is a highest-cost country;
 - £94.65** if the country concerned is a higher-cost country;
 - £77.50** if the country concerned is a high-cost country; and
 - £60.35** in any other case.

6.—(1) This paragraph shall apply in the case of a student who attends at his course for a period of not less than 45 weeks in any continuous period of 52 weeks.

(2) In respect of each aggregate period of a complete week for which he does not attend at his course in the period of 52 weeks in question, the student's supplementary requirement shall be determined in accordance with paragraph 5(2).

7.—(1) This paragraph shall apply in the case of a student who is obliged to incur expenditure—

- (a) within the United Kingdom for the purpose of attending the institution;
- (b) within or outside the United Kingdom for the purpose of attending, as part of his course, any period of study at an overseas institution.

(2) The reference in sub-paragraph (1)(a) to the student's attending the institution shall be construed—

- (a) in the case of any institution which is a constituent college, hall or school (including medical school) of a university or is a university with such constituent institutions, as

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including a reference to his attending, in connection with his course, any constituent institution of the university; and

- (b) in the case of a student attending a course in medicine, dentistry or nursing, a necessary part of which is a period of study by way of clinical training, as including a reference to his attending, in connection with his course but otherwise than for the purposes of residential study away from the institution, any hospital or other premises not comprised therein at which facilities for clinical training are provided.

(3) For the purposes of sub-paragraph (5)—

- (a) a student's total travel expenditure is the aggregate amount of expenditure he is obliged to incur for any purpose specified in sub-paragraph (1);
- (b) a student's special expenditure is the aggregate amount of expenditure he is obliged to incur for the purposes specified in sub-paragraph (1)(b), for the purpose of such attendance as is referred to in sub-paragraph (2)(b), and, in the case of a disabled student, for any other purpose specified in sub-paragraph (1) if it is expenditure which the authority are satisfied the student would not have incurred but for his disability:

Provided that, where a period of study outside the United Kingdom (whether or not at an overseas institution) is not a necessary part of the student's course, so much of his expenditure for the purpose of attending that period of study as—

- (a) was incurred outside the United Kingdom, or
- (b) was incurred within the United Kingdom but is in respect of a journey between a port or airport within and a place outside the United Kingdom, or is in respect of a benefit to be enjoyed outside the United Kingdom,

shall not be treated as part of the student's total travel expenditure or special expenditure.

(4) For the same purposes as aforesaid, the following amounts shall be disregarded in respect of travel costs—

- (i) the first **£161** of any requirement under paragraph 2;
- (ii) the first **£249** of any requirement under paragraph 3;
- (iii) the first **£8.30** of any requirement under paragraph 5(2)(a);
- (iv) the first **£5.30** of any requirement under paragraph 5(2)(b):

Provided that—

- (a) where regulation 22(2) applies, the amount to be disregarded shall be **£115** and
- (b) where a student's requirement under paragraph 2 or 3 relates to only part of the year, the amount to be disregarded shall be an equivalent part of **£161** or **£249**, as the case may be.

(5) The student's supplementary requirement in respect of such expenditure as is referred to in sub-paragraph (1) shall comprise either—

- (a) his special expenditure; or
- (b) the amount by which his total travel expenditure exceeds the amounts specified in sub-paragraph (4),

whichever is the less.

(6) For the purposes of this paragraph any reference to expenditure incurred for the purpose of attending an institution or period of study includes expenditure both before and after so attending.

8.—(1) This paragraph shall apply in the case of a student whose home is for the time being outside the United Kingdom and who incurs expenditure travelling between his home and the institution at the beginning and end of each period of attendance.

(2) In determining the supplementary requirement of such a student under paragraph 7, the authority shall treat such amount of the said expenditure as they consider appropriate (having regard to the extent of that requirement apart from this paragraph), not exceeding the amount the student was obliged to incur, as if it were part of the student's total travel expenditure.

9.—(1) This paragraph shall apply in the case of a student who reasonably incurs any expenditure in insuring against liability for the cost of medical treatment provided outside the United Kingdom for any illness or bodily injury contracted or suffered during a period of study outside the United Kingdom.

(2) The student's supplementary requirement in respect of such expenditure shall be the amount reasonably incurred.

10.—(1) This paragraph shall apply in the case of a disabled student where the authority are satisfied that by reason of his disability, he is obliged to incur additional expenditure in respect of his attendance at the course, other than expenditure for a purpose specified in paragraph 7(1).

(2) The student's supplementary requirement in respect of a non-medical personal helper shall be such amount as the authority consider appropriate not exceeding **£5,100**.

(3) The student's supplementary requirement in respect of major items of specialist equipment shall be such amount as the authority consider appropriate not exceeding **£3,840** in total for the duration of his course.

(4) The student's supplementary requirement in respect of any other additional expenditure including expenditure incurred for the purposes specified in sub-paragraphs (2) and (3) which exceeds the maxima specified therein shall be such amount as the authority consider appropriate not exceeding **£1,275**.

PART III

MAINTENANCE OF DEPENDANTS

11.—(1) The requirements referred to in regulation 18(1)(a) shall include the student's requirements for the maintenance of dependants during the year and the amount of any such requirement ("dependants requirement") shall be determined in accordance with this Part of this Schedule.

(2) Where a student's requirements for the maintenance of dependants are different in respect of different parts of a year, his dependants requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

12.—(1) In this Part of this Schedule—

"adult dependant" means, in relation to a student, an adult person dependent on the student not being his child, his spouse or a person living with him as his spouse or his former spouse, subject however to sub-paragraphs (2) and (3);

"child", in relation to a student, includes a person adopted in pursuance of adoption proceedings, a step-child and any child for whom the student has parental responsibility and who is dependent on him;

"dependant" means, in relation to a student, his dependent child, his spouse or an adult dependant, subject however to sub-paragraphs (2) and (3);

"income" means income for the year from all sources (reduced by income tax and social security contributions) but disregarding child benefit, any attendance allowance, mobility allowance or disability living allowance under section 64, 72 or 73 of the Social Security

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Contributions and Benefits Act 1992⁽³⁰⁾ or any mobility supplement or constant attendance allowance provided for in an order made under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977⁽³¹⁾ and, in the case of the student's spouse, less—

- (a) where the spouse holds an award in respect of a course of teacher training designated under regulation 10(1)(d)(iii), being a part-time course or a course which is partly full-time and partly part-time, the payments in respect of maintenance made to the spouse in pursuance of regulation 17(b) or so much of those payments as relates to the part-time part of the course;
- (b) where the spouse or the student make any payment which was previously made by the student in pursuance of an obligation incurred before the first year of the student's course—
 - (i) if, in the opinion of the authority, the obligation had been reasonably so incurred, an amount equal to the payment in question;
 - (ii) if, in their opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to them appropriate;
- (c) any allowance payable to the spouse by an adoption agency in accordance with regulations made pursuant to section 57A of the Adoption Act 1976⁽³²⁾;
- (d) any guardian's allowance to which the spouse is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (e) where a child in the care of a local authority is boarded out with the spouse any payment made to the spouse in pursuance of section 23 of the Children Act 1989⁽³³⁾; and
- (f) any payments made to the spouse pursuant to an order made under section 34 of the Children Act 1975⁽³⁴⁾ or under section 15 of and Schedule 1 to the Children Act 1989 **in respect of a person who is not the spouse's child;**

“relevant award” means a statutory award in respect of a person's attendance at—

- (a) a full-time course of higher education or a comparable course outside England and Wales;
- (b) a course designated under sub-paragraph (d)(ii) of regulation 10(1); or
- (c) the full-time part of a course designated under sub-paragraph (d)(iii) of regulation 10(1) which is partly full-time and partly part-time;

“spouse”, except in the definition above of adult dependant, shall not include a student's spouse if they have ceased ordinarily to live together whether or not an order for their separation has been made by any court.

(2) A person, including the student's spouse, shall not be treated as a dependant of the student during any period for which that person—

- (a) holds a relevant award; or
- (b) (save for the purposes of paragraph 15) is ordinarily living outside the United Kingdom.

(3) A person shall not be treated as a student's adult dependant or as his dependent child—

- (a) in the case of a person other than a child of the student, if his income exceeds by **£860** or more the sum specified in paragraph 13(4)(a);

⁽³⁰⁾ 1992 c. 4.

⁽³¹⁾ 1977 c. 5; the relevant Order currently in force is the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883, amended by S.I. 1983/1116, 1521, 1984/1154, 1687, 1985/1201, 1986/592, 1987/165, 1988/248, 2248, 1989/156, 1990/250, 1308, 1991/766, 1992/710 and 3208).

⁽³²⁾ 1976 c. 36; section 57A was introduced by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41). The relevant instruments are S.I. 1991/2030, 2130 and 2742.

⁽³³⁾ 1989 c. 41.

⁽³⁴⁾ 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

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- (b) in the case of a child of a student who either has a spouse who is, or but for sub-paragraph (2) would be, his dependant or has an adult dependant, if the child's income so exceeds the sum specified in paragraph 13(4)(b) as applicable to his age;
- (c) in the case of a child of a student not falling within sub-paragraph (b), unless either—
 - (i) the child is the only or eldest child dependent on the student whose income does not so exceed the sum specified in paragraph 13(4)(a); or
 - (ii) the child's income does not so exceed the sum specified in paragraph 13(4)(b) as applicable to his age.

13.—(1) This paragraph shall apply in the case of a student with dependants.

(2) The dependants requirement of the student shall, subject to paragraphs 14 and 15, be—

- (a) if the student's spouse holds a statutory award and in calculating payments under it account is taken of the spouse's dependants requirement, one half of the amount determined in accordance with sub-paragraphs (3) and (4);
- (b) in any other case, the whole of the amount so determined.

(3) The amount referred to in sub-paragraph (2) shall be the amount which is $X - (Y - Z)$

where—

- a X is the aggregate of the relevant sums specified in sub-paragraph (4);
- b Y is the aggregate of the income of the student's dependants;
- c Z is so much of the sum ascertained by multiplying **£860** by the number of his dependants as does not exceed Y.

(4) The relevant sums referred to in sub-paragraph (3) are—

- (a) except where the student has a spouse who is the holder of a relevant award, **£1,965**; and
- (b) in respect of each dependent child—
 - (i) under the age of 11 immediately before the beginning of the academic year, or born during that year, **£415**;
 - (ii) then aged 11 or over, but under 16, **£825**;
 - (iii) then aged 16 or over, but under 18, **£1,085**;
 - (iv) then aged 18 or over, **£1,575**;

except that the only or eldest dependent child shall be disregarded for the purposes hereof if the student has neither an adult dependant nor a spouse who is, or but for paragraph 12(2) would be, a dependant.

14.—(1) This paragraph shall apply in the case of a student with dependants who maintains a home for himself and a dependant at a place other than that at which he resides while attending the course.

(2) The dependants requirement of the student (determined in accordance with paragraph 13(2) (a) or (b)), shall be increased by **£680**.

15.—(1) This paragraph shall apply in the case of a student who maintains any dependant outside the United Kingdom.

(2) Notwithstanding anything in the foregoing paragraphs of this Part of this Schedule, the dependants requirement of the student shall be of such amount, if any, as the authority consider reasonable in all the circumstances, not exceeding the amount determined in accordance with those paragraphs.

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PART IV

OLDER STUDENTS

16. This part of this Schedule shall apply in the case of a student who attained the age of 26 before the first year of the course in respect of which his award was originally bestowed and who—

- (a) started the course before 1st September 1995 and in the three years immediately preceding the first year of the course earned or received by way of such unemployment benefit or income support as is chargeable to income tax under section 617 or 151 respectively of the Income and Corporation Taxes Act 1988⁽³⁵⁾ sums totalling at least £12,000; or
- (b) started the course before 1st September 1995, held an award (or was in receipt of a grant under arrangements made under section 2 of the Education Act 1962⁽³⁶⁾ in respect of his attendance at a previous course and had earned or received such sums as are mentioned at sub-paragraph (a) in the three years immediately preceding the first year of that previous course; or
- (c) started the course on or after 1st September 1995, immediately before starting that course (disregarding any intervening vacation) attended a full-time course of further or higher education which he had started before 1st September 1995 and had earned or received such sums as are mentioned at sub-paragraph (a) in the three years immediately preceding the first year of that previous course.

17. The requirements referred to in regulation 18(1)(a) shall, in the case of such a student, include—

- (a) where at the beginning of the first year of his course he was aged 26 years, the sum of **£330**;
- (b) where he was so aged 27 years, the sum of **£580**;
- (c) where he was so aged 28 years, the sum of **£860**;
- (d) where he was so aged 29 or more years, the sum of **£1,130**.

PART V

CONSTRUCTION OF PARTS I TO IV

18. In this Schedule, any reference to the home of the student's parents shall be construed, in the case of a student whose spouse attends a full-time course at any institution, as including a reference to the home of the parents of the student's spouse.

19. In this Schedule, except where the context otherwise requires, any reference to a requirement, expenditure or attendance in respect of which no period of time is specified shall be construed as a reference to a requirement, expenditure or attendance for the year.

20.—(1) For the purposes of this Schedule, attendance at an institution, or a period of study, is a necessary part of a student's course only where the authority are satisfied that if the student did not attend the institution, or undertake the period of study, he would not be eligible to complete his course; and, for the purpose of being so satisfied, the authority may require the matter to be evidenced by a certificate given by the academic authority.

(2) For the purposes of this paragraph, "institution" includes an "overseas institution".

(35) 1988 c. 1.

(36) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20).

SCHEDULE 3

Regulation 18

RESOURCES

PART I

STUDENT'S INCOME

Calculation of student's income

1.—(1) In calculating the student's income for the purposes of regulation 18(1)(b) there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, but there shall be disregarded the following resources—

- (a) the first £800 of any income other than income of a kind mentioned in paragraphs (b) to (v) below and other than any sum treated as income under sub-paragraph (3);
- (b) the first £3,865 of any income by way of
 - (i) scholarship, studentship, exhibition or award of a similar description bestowed on the student in respect of the course (in pursuance of a sponsorship scheme or otherwise) not being an award bestowed in pursuance of section 1 of the Education Act 1962⁽³⁷⁾, and
 - (ii) in the case of a student released by his employer to attend the course, any payments made by that employer;
- (c) in the case of a student for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5)—
 - (i) the whole of that income or those payments if a parental contribution ascertained in accordance with Part II or a spouse's contribution ascertained in accordance with Part III is applicable (at whatever amount including nil that contribution is ascertained to be), or
 - (ii) the first £1,810 of that income or those payments if such a contribution would be applicable but for the fact that the student has no parent living or is such a student as is described in paragraph 3(b), (c), (d), (e) or (f).
- (d) any disability pension not subject to income tax;
- (e) any bounty received as a reservist with the armed forces;
- (f) remuneration for work done during any year of the student's course;
- (g) in the case of a student in whose case a parental contribution is by virtue of Part II of this Schedule applicable (at whatever amount, including nil, that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;
- (h) any payment made for a specific educational purpose otherwise than to meet such fees and such requirements for maintenance as are specified in Schedules 1 and 2;
- (i) child benefit;

⁽³⁷⁾ 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20); section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4; section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2.

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- (j) any income support under Part VII of the Social Security Contributions and Benefits Act 1992(38), or any transitional addition, personal expenses addition or special transitional addition payable under Part II of the Income Support (Transitional) Regulations 1987(39);
- (k) any **incapacity benefit**, attendance allowance, severe disablement allowance or disability living allowance under section 30A, 64, 68, 71 of the Social Security Contributions and Benefits Act 1992 **respectively**, or any mobility supplement or constant attendance allowance provided for in an Order made under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(40);
- (l) any housing benefit or community charge benefits granted to him in pursuance of a statutory or local scheme under Part VII of the Social Security Contributions and Benefits Act 1992 or any council tax benefit granted to him in pursuance of a statutory or local scheme under that Act(41);
- (m) any allowance payable to him by an adoption agency in accordance with regulations made pursuant to section 57A of the Adoption Act 1976(42);
- (n) any guardian's allowance to which he is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (o) in the case of a student with whom a child has been placed by a local authority under section 23(2)(a) of the Children Act 1989(43), any payment made to him in pursuance of that section;
- (p) any payments made to the student in pursuance of an order made under section 34 of the Children Act 1975(44) or under section 15 of and Schedule 1 to the Children Act 1989(45) in respect of a person who is not his child or any assistance given by a local authority pursuant to section 24 of that Act;
- (q) any payments made to the student under the programmes of the European Community known as COMETT(46) and LEONARDO DA VINCI(47);
- (r) any payments made to the student under the action scheme of the European Community for the Mobility of University Students known as ERASMUS(48) or the European Community programme for foreign language competence known as LINGUA(49);
- (s) the first £3,030 of any pension, however described, other than one of the kind mentioned at sub-paragraph (d) above, and including any such pension paid to the student as a widow, child or dependant;

(38) 1992 c. 4.

(39) S.I. 1987/1969.

(40) 1977 c. 5, the relevant Order currently in force is the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883, amended by S.I. 1983/1116, 1521, 1984/1154, 1687, 1985/1201, 1986/592, 1987/165, 1988/248, 2248, 1989/156, 1990/250, 1308, 1991/766, 1992/710 and 3208).

(41) The statutory schemes are currently constituted in relation to housing benefit by the Housing Benefits (General) Regulations 1987 (S.I. 1987/1971), in relation to community charge benefits by the Community Charge Benefits (General) Regulations 1987 (S.I. 1989/1321) and in relation to council tax benefit by the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814).

(42) 1976 c. 36; section 57A was introduced by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41). The relevant instruments are S.I. 1991/2030, 2130 and 2742.

(43) 1989 c. 41.

(44) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

(45) 1989 c. 41; section 15 was amended by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 16, paragraph 10(1), and by the Maintenance Enforcement Act 1991 (c. 17), section 11(1) and Schedule 2, paragraph 10; Schedule 1 was amended by the Courts and Legal Services Act 1990, section 116 and Schedule 16, paragraphs 10(2) and 26, by the Maintenance Enforcement Act 1991, section 6, by the Child Support Act 1991 (c. 48), section 58(14), by the Transfer of Functions (Magistrates' Courts and Family Law) Order 1992 (S.I. 1992/709), article 3(1) and Schedule 2, by the Maintenance Orders (Backdating) Order 1993 (S.I. 1993/623), article 2 and Schedule 1.

(46) OJ No. L222, 8.8.86, p.17.

(47) OJ No. L340, 29.12.94, p.8.

(48) OJ No. L166, 25.6.87, p.20.

(49) OJ No. L239, 16.8.89, p.24.

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- (t) any payment made to the student in pursuance of the Education (Student Loans) Act 1990(50);
- (u) any payment made to the student out of access funds held by the institution at which he attends his course;
- (v) any payment made to the student as a “Career Development Loan” in pursuance of section 2 of the Employment and Training Act 1973(51).

(2) In the case of a student who makes any payment in pursuance of an obligation incurred before the first year of his course, in calculating his income for the purposes aforesaid there shall be deducted therefrom—

- (a) if, in the opinion of the authority, the obligation had been reasonably so incurred, an amount equal to the payment in question;
- (b) if, in their opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to them appropriate;

except that no deduction shall be made from the income of a married student where the student’s spouse is a dependant for the purpose of Part III of Schedule 2 and, in pursuance of paragraph 13(1) thereof, the payment is taken into account in determining the spouse’s income.

(3) In a case where the student is the parent or step-parent of an award holder in respect of whom a contribution is ascertained under Part II of this Schedule, so much of the amount (if any) by which the contribution is reduced under paragraph 4(3) as the authority consider just shall be treated as part of the student’s income for the purposes of regulation 18(1)(b).

PART II

PARENTAL CONTRIBUTION

Definitions and construction of Part II

2.—(1) In this Part of this Schedule—

“child” includes a person adopted in pursuance of adoption proceedings and a step-child but, except in paragraph 4, does not include a child who holds a statutory award; and, except as otherwise provided by paragraph 5, “parent” shall be construed accordingly;

“gross income” has the meaning assigned to it by paragraph 5;

“income of the student’s parent” means the total income of the parent from all sources computed as for income tax purposes, except as otherwise provided by paragraph 5 or 6;

“residual income” means, subject to sub-paragraph (2), the balance of gross income remaining in any year after the deductions specified in paragraph 6 have been made;

“total income” has the same meaning as in section 835(1) of the Income and Corporation Taxes Act 1988(52).

(2) Where, in a case not falling within paragraph 5(3) or (4), the authority are satisfied that the income of the parent in any financial year is as a result of some event beyond his control likely to be, and to continue after that year to be, not more than 85 per cent. of his income in the financial year preceding that year, they may, for the purpose of enabling the student to attend the course without

(50) 1990 c. 6, amended by the Education (Student Loans) Act 1996 (c. 9).

(51) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19) s.25(1); subsections (4) and (6) of section 2 were repealed by the Employment Act 1989 (c. 38), Schedule 7, Part 1; “Career Development Loans” are made by banks to persons who are enrolled on eligible courses; they are made in pursuance of arrangements made by the Secretary of State for Education and Employment under section 2.

(52) 1988 c. 1.

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hardship, ascertain the parental contribution for the year of his course in which that event occurred by taking as the residual income the average of the residual income for each of the financial years in which that year falls.

(3) Where the student's parent satisfies the authority that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then, if the authority and the parent so agree, any reference in this Part of this Schedule to a financial year shall be construed as a reference to a year ending with such date as appears to the authority expedient having regard to the accounts kept in respect of that business or profession and the periods covered thereby.

(4) Where a parent is in receipt of any income which does not form part of his total income by reason only that—

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

his income for the purposes of this Part of this Schedule shall be computed as though the income first mentioned in this sub-paragraph were part of his total income.

Application of Part II

3. A parental contribution ascertained in accordance with this Part shall be applicable in the case of every student except—

- (a) an independent student;
- (b) a student in respect of whom the authority are satisfied either—
 - (i) that his parents cannot be found; or
 - (ii) that it is not reasonably practicable to get in touch with them;
- (c) a student who has been—
 - (i) in the care of a local authority;
 - (ii) provided with accommodation by a local authority under section 20 of the Children Act 1989⁽⁵³⁾;
 - (iii) in the care of a voluntary organisation within the meaning of section 88 of the Children Act 1975⁽⁵⁴⁾; or
 - (iv) accommodated by a voluntary organisation under section 59 of the Children Act 1989 throughout the three months immediately preceding—
 - (v) the first year of his course; or
 - (vi) without prejudice to sub-paragraph (v), his attaining the age of 18 years where he had attained that age before the first year of his course,

and has not, at any time in the said period, been allowed by the local authority to be under the charge and control of his parents or, in the case of a student who has been in the care of or accommodated by a voluntary organisation, has not, at any such time, in fact been under such charge and control;

- (d) a student whose parents are residing overseas where the authority are satisfied either—
 - (i) that the assessment of a parental contribution would place those parents in jeopardy;
 - or

⁽⁵³⁾ 1989 c. 41.

⁽⁵⁴⁾ 1975 c. 72; the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

- (ii) that it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;
- (e) a student who has been the subject of a custodianship order made under section 33 of the Children Act 1975 or a residence order made under section 8 of the Children Act 1989 in favour of a person who is not his parent throughout the three months immediately preceding—
 - (i) the first year of his course; or
 - (ii) without prejudice to sub-paragraph (i), his attaining the age of 18 years where he had attained that age before the first year of his course;
- (f) where sub-paragraph (7) of paragraph 5 applies and the parent whom the authority considered the more appropriate for the purposes of that sub-paragraph has died.

Parental contribution

- 4.—(1) The parental contribution shall, subject to sub-paragraphs (2), (3), and (4) be—
- (a) in any case in which the residual income is **£16,450** or more but less than **£21,030**, £45 with the addition of £1 for every complete £13.00 by which it exceeds **£16,450**;
 - (b) in any case in which the residual income is **£21,030** or more but less than **£30,915**, **£397** with the addition of £1 for every complete £9.20 by which it exceeds **£21,030**; and
 - (c) in any case in which the residual income is **£30,915** or more, **£1,471** with the addition of £1 for every complete £7.50 by which it exceeds **£30,915**,

reduced in each case in respect of each child of the parent (other than the student) who is wholly or mainly dependent on him on the first day of the year for which the contribution falls to be ascertained, by £75; and in any case in which the residual income is less than **£16,450** the parental contribution shall be nil.

(2) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall in no case exceed **£5,945**.

- (3) For any year in which a statutory award is held by—
- (a) more than one child of the parent;
 - (b) the parent; or
 - (c) the student's step-parent, the parental contribution for the student shall be such proportion of any contribution ascertained in accordance with this Part as the authority (after consultation with any other authority concerned) consider just;

provided that where a contribution is ascertained in respect of more than one child of the parent the aggregate amount of the contributions in respect of each shall not exceed the amount of the contribution that would be ascertained if only one child held an award.

(4) Where in any year a student attends only part of his course the parental contribution for that year shall be reduced pro rata.

Gross income

5.—(1) For the purposes of this paragraph “preceding financial year” means the financial year preceding the year in respect of which the resources of the student fall to be assessed and “current financial year” means the financial year which includes the first day of the year;

provided that where references to a financial year fall to be construed in accordance with paragraph 2(3) as references to a year ending less than five months before the beginning of a year of the student's course, “preceding financial year” shall mean the year last ending five or

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more months before the year in respect of which the resources of the student fall to be assessed and “current financial year” shall mean the year ending within those five months.

(2) Subject to the provisions of this paragraph, “gross income” means the income of the student’s parent in the preceding financial year or, for the purpose of calculating residual income under paragraph 2(2), in the financial year there mentioned.

(3) Where the authority are satisfied that the income of the parent in the current financial year is likely to be not more than 85 per cent of his income for the preceding financial year, they may for the purpose of calculating the parental contribution ascertain the gross income by reference to the current financial year; and in such case sub-paragraph (2) shall have effect, in relation to the year in respect of which the student’s resources fall to be assessed and, if the authority so determine, any subsequent year, as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where—

- (a) one of the student’s parents dies either before or during the year in respect of which the resources of the student fall to be ascertained (“the relevant year”); and
- (b) that parent’s income has been or would be taken into account for the purpose of determining the parental contribution,

the parental contribution shall—

- (a) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (b) where the parent dies during the relevant year, be the aggregate of—
 - (i) the appropriate proportion of the contribution determined by reference to the income of both parents that is to say such proportion thereof as the part of the relevant year during which both parents were alive bears to the full year, subject to a maximum of the same proportion of the student’s maintenance requirements as determined in accordance with Schedule 2; and
 - (ii) the appropriate proportion of the contribution determined by reference to the income of the surviving parent, that is to say such proportion thereof as the part of the relevant year remaining after the parent dies bears to the full year, subject to a maximum of the same proportion of the student’s maintenance requirements as determined in accordance with Schedule 2.

(5) Without prejudice to sub-paragraph (6), where, in pursuance of any trust deed or other instrument or by virtue of section 31(1) of the Trustee Act 1925(55) or any other enactment, any income is applied by any person for or towards the maintenance, education or other benefit of the student or of any person dependent on the student’s parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross income of the parent.

(6) Where any such benefit as is mentioned in paragraph 1(1)(b)(i) of Part I of this Schedule is provided, by reason of the parent’s employment, for any member of his family or household who holds a statutory award (whether the student or some other such member) then, notwithstanding the provisions of section 154 of the Income and Corporation Taxes Act 1988(56), that benefit shall not be treated as part of the gross income of the parent.

(7) Where the parents do not ordinarily live together throughout the year in respect of which the resources of the student fall to be ascertained (“the relevant year”), the parental contribution shall be determined by reference to the income of whichever parent the authority consider the more appropriate in the circumstances.

(55) 1925 c. 19; section 31 was amended by the Family Law Reform Act 1969 (c. 46) section 1(3) and Schedule 1, Part I.

(56) 1988 c. 1.

(8) Where the parents do not ordinarily live together for part only of the relevant year, the parental contribution shall be the aggregate of—

- (a) the appropriate proportion of the contribution determined as provided in sub-paragraph (7), that is to say such proportion thereof as the part of the relevant year for which the parents do not so live together bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 2; and
- (b) the appropriate proportion of the contribution determined without regard to this sub-paragraph, that is to say, such proportion thereof as the part of the relevant year for which the parents so live together bears to the full year, subject to a maximum of the same proportion of the student's maintenance requirements as determined in accordance with Schedule 2.

(9) Where one of the student's parents is his step-parent the parental contribution shall be ascertained by reference only to the income of the other parent.

Deductions

6.—(1) For the purposes of determining the income of a student's parent (and, accordingly, the parent's gross income), in so far as in computing his total income for income tax purposes any deductions fall to be made—

- (a) by way of personal reliefs provided for in Chapter I of Part VII of section 280 of the Income and Corporation Taxes Act 1988;
- (b) in respect of any payment made by the parent under covenant;
- (c) in pursuance of any Act passed after the passing of the Finance Act 1987⁽⁵⁷⁾ on 15 May 1987; or
- (d) without prejudice as aforesaid, of a kind mentioned in sub-paragraph (2), the parent's income shall be determined as though those deductions did not fall to be made.

(2) For the purpose of determining a parent's residual income there shall be deducted from his gross income—

- (a) in respect of any person, other than a spouse, child or holder of a statutory award, dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which **£2,080** exceeds the income of that person in that year;
- (b) the gross amount of any sums paid as interest (including interest on a mortgage) in respect of which relief is given under the Income Tax Acts in respect of a loan to the parent;
- (c) half of the gross amount of any premium payable under a policy of life insurance in respect of which relief is given under section 266 of the Income and Corporation Taxes Act 1988 (life policy and certain other premiums) in the relevant year;
- (d) the gross amount of any other premium or sum in respect of which relief is given under section 266, 273, 619 or 639 of that Act in the relevant year;
- (e) where the parents ordinarily live together and one of them is incapacitated, so much of the cost in wages of domestic assistance as does not exceed **£1,630**;
- (f) where a parent whose marriage has terminated either is gainfully employed or is incapacitated, so much of the cost in wages of domestic assistance as does not exceed **£1,630**;
- (g) in respect of additional expenditure incurred by reason of the fact that the parent lives in a place where the cost of living is higher than that cost in the United Kingdom, such sum (if any) as the authority consider reasonable in all the circumstances;

(57) 1987 c. 16.

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- (h) in the case of a parent who holds a statutory award, the amount by which the aggregate of his requirements for his ordinary maintenance (ascertained in accordance with Part I of Schedule 2) and **£845** exceeds the sum payable in respect of maintenance in pursuance of that award;
 - (i) any payments made to the parent pursuant to an order made under section 34 of the Children Act 1975⁽⁵⁸⁾ or under section 15 of and Schedule 1 to the Children Act 1989⁽⁵⁹⁾ in respect of a person who is not his child.
- (3) In any case where income is computed as though it were total income by virtue of paragraph 2(4), there shall be deducted from the parent's gross income sums equivalent to the deductions mentioned in paragraphs (b), (c), (d) or (i) of sub-paragraph (2), provided that any sums so deducted shall not exceed the deductions that would be made if the whole of the parent's income were in fact total income.

PART III

SPOUSE'S CONTRIBUTION

Application of Part III

7. A spouse's contribution ascertained in accordance with this Part shall be applicable in the case of every man student ordinarily living with his wife and every woman student so living with her husband except—

- (a) a student in whose case a parental contribution is applicable in accordance with Part II; and
- (b) a student whose child holds an award in respect of which a parental contribution is applicable.

Spouse's contribution

8.—(1) Subject to sub-paragraphs (3) and (4), Part II above, except paragraphs 3, 4(1), (2), (3)(a) and (c), 5(4), (7), (8) and (9), and 6(2)(f), shall apply with the necessary modifications for the ascertainment of the spouse's contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed, except where the context otherwise requires, as references to the student's spouse and, unless the context otherwise requires, this Part shall be construed as one with the said Part II.

(2) The spouse's contribution shall be—

- (a) in any case in which the residual income is **£13,015** or more but less than **£21,035**, £10 with the addition of £1 for every complete £9.80 by which it exceeds **£13,015**;
- (b) in any case in which the residual income is **£21,035** or more but less than **£30,910**, **£828** with the addition of £1 for every complete £7.05 by which it exceeds **£21,035**; and
- (c) in any case in which the residual income is **£30,910** or more, **£2,228** with the addition of £1 for every complete £5.60 by which it exceeds **£30,910**;

(58) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.

(59) 1989 c. 41; section 15 was amended by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 16, paragraph 10(1), and by the Maintenance Enforcement Act 1991 (c. 17), section 11(1) and Schedule 2, paragraph 10; Schedule 1 was amended by the Courts and Legal Services Act 1990, section 116 and Schedule 16, paragraphs 10(2) and 26, by the Maintenance Enforcement Act 1991, section 6, by the Child Support Act 1991 (c. 48), section 58(14), by the Transfer of Functions (Magistrates' Courts and Family Law) Order 1992 (S.I. 1992/709), article 3(1) and Schedule 2, by the Maintenance Orders (Backdating) Order 1993 (S.I. 1993/623), article 2 and Schedule 1.

reduced in any such case by £100 in respect of each child of the student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than **£13,015** the spouse's contribution shall be nil:

provided that the amount of the spouse's contribution shall in no case exceed **£5,945**.

(3) If the student marries during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks before the date of the marriage and whichever is the earlier of the end of that year and the end of the course.

(4) If the student's marriage terminates during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the marriage.

SCHEDULE 4

Regulation 18(2)

SINGLE STUDENTS WITH DEPENDANTS

1. This Schedule shall apply in the case of a student who does not ordinarily live with a spouse or with another person as a spouse.

2.—(1) This paragraph shall apply where the student has dependants within the meaning of Part III of Schedule 2.

(2) In the case of such a student—

- (a) the sum to be disregarded under paragraph 1(1)(a) of Schedule 3 shall be £1,735 instead of £800; or
- (b) his requirements under paragraph 13 of Part III of Schedule 2 shall be treated as increased by the sum of **£970**; or
- (c) in the case of a student to whom Part IV of Schedule 2 applies, his requirements shall be treated as including the sum specified in paragraph 17 thereof,

whichever is the most favourable to him (disregarding paragraph (b) where, in pursuance of the following paragraph, he elects as there mentioned).

3.—(1) This paragraph shall apply in the case of a student with one or more child dependants under the age of 19 years and for the purpose of this paragraph "child" shall have the same meaning as in Part III of Schedule 2.

(2) Such a student may elect that the sum specified as his requirement in Part III of Schedule 2 shall be disregarded and that instead there shall in calculating his income be disregarded **£2,250** in respect of his only or eldest such child and **£710** in respect of every other such child.

SCHEDULE 5

Regulations 2, 4(3) and 20

SANDWICH COURSES

1.—(1) In this Schedule—

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“sandwich course” means a course consisting of alternate periods of full-time study in an institution and periods of experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period;

“periods of experience” means, subject to sub-paragraph (2), periods of industrial, professional or commercial experience associated with full-time study at the institution but at a place outside the institution;

“sandwich year” means, as respects any student, any year of a sandwich course which includes both periods of full-time study in the institution and periods of experience, other than—

- (a) **unpaid service in a hospital or in a public health service laboratory in the United Kingdom;**
- (b) **unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to health, welfare or the care of children and young persons or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;**
- (c) **unpaid service in the prison or probation and aftercare service in the United Kingdom;**
- (d) **teaching practice;**
- (e) **unpaid research in an institution or, in the case of a student attending an overseas institution as a necessary part of his course, in an overseas institution;**
- (f) **such experience as aforesaid falling wholly within the usual periods of attendance at the institution in any year which do not comprise paid service or employment and either—**
 - (i) **do not aggregate more than 6 weeks during that year; or**
 - (ii) **fall within that year and another year and do not aggregate more than 12 weeks during the two years taken together, where that other year has not already been taken into account for the purposes hereof; or**
- (g) **unpaid service with—**
 - (i) **a Health Authority established pursuant to section 8 of the National Health Service Act 1977(60) or a Special Health Authority established pursuant to section 11 of that Act(61);**
 - (ii) **a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(62); or**
 - (iii) **a health and social services board established under Article 16 of the Health and Personal Social Services Order (Northern Ireland) 1972(63);**

“prescribed proportion” means the proportion which the number of weeks in the year for which the student in question attends the institution bears to 30, except that where the proportion is greater than the whole it means the whole;

(60) 1977 c. 49; section 8 was substituted by the Health Authorities Act 1995 (c. 17), section 1(1).

(61) Section 11 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 31, the National Health Service and Community Care Act 1990 (c. 19), Schedule 10 and the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 2.

(62) 1978 c. 29; section 2 was amended by the Health and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 1, and by the National Health Service and Community Care Act 1990 (c. 19), section 28 and Schedule 9, paragraph 19(1).

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

“modified proportion” means the proportion which the number of weeks in the year in which there are no periods of experience for the student in question bears to 52.

(2) In the case of a student whose course includes the study of one or more modern languages for not less than one half of the time spent studying on the course and which includes periods of residence in a country whose language is a language of the course, “periods of experience” means such periods of residence for which he is in gainful employment.

(3) For the purposes of determining the prescribed proportion or the modified proportion where the number of weeks in question is not a whole number, a day shall be reckoned as a seventh of a week.

(4) In the application of this Schedule to a student to whom Schedule 4 applies, references to Schedules 2 and 3 are to be construed as references to those Schedules as modified in accordance with Schedule 4.

(5) In the application of this Schedule to a student attending a course provided at the University of Oxford or of Cambridge the provisions thereof shall have effect as if—

- (a) in the definition of “prescribed proportion” in sub-paragraph (1) for the number “30” there were substituted the number “25”; and
- (b) in paragraph 2 for the words “30 weeks 3 days”, in both places where they occur, there were substituted the words “25 weeks 3 days”.

2. The provisions of Schedule 2 shall, as respects any sandwich year, have effect subject to the following modifications—

- (a) where the period of full-time study does not exceed 30 weeks 3 days, the student’s requirements for his ordinary maintenance shall be the prescribed proportion of the appropriate amount specified in Part I;
- (b) where the period of full-time study exceeds 30 weeks 3 days, the student’s requirements for his ordinary and supplementary maintenance shall be the aggregate of the appropriate amount specified in Part I and the appropriate amount specified in paragraph 5 of Part II;
- (c) the student’s requirement for the maintenance of a dependent shall be the modified proportion of the sum specified in Part III except that where such a requirement falls to be increased under paragraph 14 it shall be increased by the prescribed proportion or the sum there specified; and
- (d) if the student is a person to whom Part IV applies, his requirements under that Part shall be the modified proportion of the amount there specified.

3. The provisions of Schedule 3 shall, as respects any sandwich year, have effect subject to the following modifications—

- (a) the sum to be disregarded under paragraph 1(1)(a) of Part I shall be the prescribed proportion of £800 and the reference in paragraph 1(1)(c) to £1,810 shall be construed as a reference to the aggregate of £1,010 and the prescribed proportion of £800;
- (b) in calculating the student’s income,
 - (i) there shall be disregarded any payment made to him by his employer in respect of any period of experience;
 - (ii) the prescribed proportion of his income shall be treated as if it were the whole of his income;
- (c) the amount of the parental contribution applicable to his case shall be the prescribed proportion of the contribution ascertained in accordance with Part II; and
- (d) the amount of the spouse’s contribution applicable to his case shall be the prescribed proportion of the contribution ascertained in accordance with Part III.

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19th February 1997

Eric Forth
Minister of State
Department for Education and Employment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st September 1997, supersede the Education (Mandatory Awards) Regulations 1995.

Provisions in these Regulations which differ from the corresponding provisions of the 1995 Regulations as amended (except as a result of minor drafting or consequential changes) are indicated by the use of heavy type. Omissions are indicated by the use of dots. The changes of substance made by these Regulations other than the changes in the rates of grant and allowances are described below.

The definition of a European student has been amended to ensure that all European Community nationals who are not eligible for a full award under regulation 7(a) by virtue of the operation of regulation 13(1) are eligible for a fees only award under regulation 7(b) (regulation 2). The provisions relating to European Economic Area migrant workers have been amended to ensure that British migrant workers returning from employment in the EEA have precisely the same entitlement to awards as migrant workers who are nationals of other member States of the EEA (the definition of migrant worker in regulation 5(6) and regulation 13(3)).

A student who is irreconcilably estranged from his parents will not have his maintenance grant assessed on the assumption that his parents will make a contribution to his maintenance, and a year without communication between a student and either of his parents will be considered to be irreconcilable estrangement (regulation 3(1)(e) and 3(3)). A student who has moved to England or Wales from elsewhere in the United Kingdom and Islands for the purpose of attending a course will not be treated as ordinarily resident in the area of the authority where he attends the course, and therefore will not be entitled to an award, as he might otherwise be under the Education (Areas to which Pupils and Students Belong) Regulations 1996 (regulation 8(3)).

A course for the Higher National Diploma provided by a publicly funded institution in conjunction with a private institution, or by a private institution, may now be designated for the purpose of the Regulations by the Secretary of State (regulation 10(1)(c)(ii)). The regulation excepting from entitlement students who have previously attended certain courses has been amended to make it clear that in calculating the length of such courses for the purposes of determining whether the exception applies it is the period ordinarily required for the courses' completion which is relevant, rather than the period the student in fact attended the particular course (regulation 12(8)). The regulation has also been amended to provide that attendance at more than one course where an award has been transferred from one course to another shall only be considered to be attendance at the most recent course, the duration of which includes the time spent on the first course or courses and the time ordinarily required for the completion of the most recent course (regulation 12(11)).

An additional exception to entitlement has been added, so that a student who is not settled in the United Kingdom within the meaning of the Immigration Act 1971 at the beginning of the first year of the course in question will not be entitled to an award (regulation 13(1)(c)). Settlement is defined in the Immigration Act as being ordinarily resident in the United Kingdom without being subject under the immigration laws to any restriction on the period for which the person in question may

stay. This new exception does not apply to European Community students or to European Economic Area migrant workers, their spouses or children.

Restrictions on the transfer of awards after the first 16 months of a course which applied when the course to which a student wished to transfer his award would have taken longer to complete than his original course would have taken to complete have been removed (regulation 14)). Instead when an award is transferred in such circumstances payments of fees and maintenance will be suspended immediately for a period which represents the increased length of time which the student will require to complete the course. After the period of suspension payments will resume until the end of the course (regulation 25(8) to (15)).

Provision has been made to disregard incapacity benefit paid to a student in calculating his income for the purposes of determining his entitlement to maintenance grant (Schedule 3, paragraph 1(1)(k)).

The provisions concerning sandwich courses have been amended so that all courses consisting of alternate periods of study and periods of industrial, professional or commercial experience associated with full-time study, paid or unpaid, are treated as sandwich courses (Schedule 5 paragraph 1(1)). Courses involving certain types of unpaid service will still not attract the reduction in maintenance payments normally applicable to sandwich courses, as a year including periods of such service do not fall within the definition of "sandwich year". However such courses now attract a reduction in fee payments in the circumstances referred to in Schedule 1, paragraph (a)(viii). Further, the minimum requirement of full-time study for an average of not less than 19 weeks in each year of a course will apply to all courses involving a period of industrial, professional or commercial experience associated with full-time study.