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## 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

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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.