
EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations, which come into force on 3rd March 1999 are the second regulations made under section 22 of the Teaching and Higher Education Act 1998. They provide for grants for fees, loans for maintenance and supplementary grants for maintenance for eligible students in connection with their attendance on designated higher education courses in an academic year beginning on or after 1st September 1999. They are the first regulations under the 1998 Act to draw together provision for grants and loans, both of which are now in part means tested. They apply to students who began their courses in September 1998 or later. Students who began their courses before then, and certain students who began their courses after then, remain subject to the previous system of mandatory awards for fees and maintenance, and mortgage style loans for maintenance.

Transitional provisions ensure that students who started courses in the 1998/99 academic year and who were eligible for grants under the Education (Mandatory Awards) Regulations 1998 and/or loans under the Education (Student Support) Regulations 1998 will continue to be eligible for grants or loans respectively under the 1999 Regulations in the second and subsequent years of their courses (regulation 3(6) and (7)).

Students are eligible for financial support under the Regulations if on the first day of the first academic year of the course they are settled in the United Kingdom for the purposes of the Immigration Act 1971, on that day they are ordinarily resident in England and Wales, and for the three years immediately preceding that day they have been ordinarily resident in the United Kingdom and Islands for purposes other than receiving full-time education (Schedule 1, paragraphs 1 and 8). Students may also be eligible if they are refugees, if they have been given exceptional leave to enter or remain in the United Kingdom, or if they are European Economic Area migrant workers, or the spouses or children of such workers (Schedule 1, paragraphs 2 to 6). Such students must also be ordinarily resident in England and Wales on the first day of the course and in certain cases meet residence requirements (Schedule 1, paragraph 8).

Students who are nationals of a member State of the European Community (including the United Kingdom) who are attending a course in England and Wales are eligible for grants for fees (Schedule 1, paragraph 7). Such students must for the three years immediately preceding the first day of the academic year of the course have been ordinarily resident in the European Economic Area for purposes other than receiving full-time education (Schedule 1, paragraph 8). Students who are eligible to receive certain non-means-tested National Health Service bursaries or awards, who are in breach of any obligation to repay any student loan, who have failed to ratify any other student loan they received when they were under the age of 18, or who have shown themselves by their conduct to be unfitted to receive support, are ineligible (regulation 4(2)).

A student will generally not be eligible for grants for fees who has previously attended a full-time course provided by an institution in the United Kingdom maintained or assisted from public funds, or who has otherwise previously received support from public funds which was available to defray fees (regulation 10(2)). Exceptions to this are where the present course is a course of initial teacher training, or the student has attended one previous course for not more than one academic year (regulation 10(4)). Students who have previously attended one or more courses of up to two years' duration in total are eligible for limited grant for fees (regulation 10(5)). Students participating in the ERASMUS scheme, whose periods of study in the academic year are all at an institution outside the United Kingdom, are not eligible for grants for fees for the year in question (regulation 10(7)). These students have their fees automatically paid from other funds.

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Students who repeat part or all of their course may receive grant for fees for the repeat period. Except where the student is repeating all or part of the first year for the first time, eligibility for grant for fees is at the Secretary of State's discretion (regulation 10(8)).

Students who receive consent or recommendation to transfer before they start the second year of their course are eligible for grant for fees for the duration of the second course. Where the consent or recommendation is received later, the student is eligible for support (including that which he has already received) for the number of years equal to the ordinary duration of whichever is the longer of the original or the new course (regulation 10(9)).

To be eligible for a loan and for grants for living costs a student must be aged under 50 on the first day of the first academic year of the course, or aged between 50 and 54 years and intending to return to employment on completing his studies (regulations 12(1) and 17(1)). Students aged 50 or over who started courses in the academic year beginning 1st September 1998 will now be eligible for loans if they have the required intention; if they were entitled to grants for living costs under the Education (Mandatory Awards) Regulations 1998 they will continue to be eligible for supplementary grants for living costs under these Regulations in any case (regulation 3(6)).

Students are not eligible for grants for living costs who are eligible to receive one of certain means-tested National Health Service bursaries or awards, who are on part-time courses of initial teacher training involving less than six weeks' full-time attendance during the academic year (regulation 12(3)), or who are on sandwich placements other than certain unpaid placements (regulation 12(4)).

To be eligible students must also attend a designated course (regulation 5). Courses which are designated courses for the purposes of the Act and Regulations are specified in Schedule 2. Such courses must be full-time or sandwich courses or part-time courses for the initial training of teachers, of at least one academic year's duration, and be provided at least in part by an institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds (regulation 5(1)). The Secretary of State may designate other courses by administrative act from time to time (regulation 5(9)).

Students must apply for student support under the Regulations by submitting an application form, usually not later than four months after the first day of the course, or not later than sixteen months after the first day if the course started in the 1998/99 academic year. They must provide evidence of their place and date of birth and any other evidence which the Secretary of State requires to establish their eligibility (regulation 6).

Students may request that their eligibility for support be transferred to another course, either at the same or a different institution. In some cases the recommendation or consent of the institution and any other institution concerned must be obtained. The Secretary of State may refuse such a transfer in certain cases (regulation 7).

A student's eligibility may be terminated where the period ordinarily required to complete the course has expired, where the student has withdrawn from, abandoned or been expelled from his course, or where he has shown himself unfitted by his conduct to receive support (regulation 8).

Students must provide any information required by the Secretary of State in exercising his functions under the Regulations as soon as reasonably practicable, and notify him immediately if any of certain particulars relating to their attendance on a course change (regulation 9).

Specified grants for living costs are available in respect of extra costs arising from a disability; to certain students who have been in custody or care pursuant to a court order; in respect of dependants; and in respect of certain travel costs above a disregard (regulations 13 to 16).

Students are eligible for different rates of loan according to where they live and study; whether they are in their final year of the course; and whether they are studying at an overseas institution as a necessary part of the course. Students who have to attend their courses above a certain number of weeks in the academic year are eligible for additional loans at a weekly rate (regulation 18).

Students who are eligible to receive one of certain means-tested National Health Service bursaries or awards, who are on sandwich placements (other than certain unpaid placements specified in regulation 12(4) where the periods of full-time study at the institution during the academic year are less than ten weeks in total, or who are on part-time courses of initial teacher training involving less than six weeks' full-time attendance during the academic year, are eligible for non-means-tested loans at 50 per cent of the rates specified (regulation 18(11)).

Students who are eligible for a loan and who wish to apply for a loan in relation to an academic year must submit an application in such form as the Secretary of State requires not later than one month before the end of the academic year (regulation 19(1)). The student must include in the application his United Kingdom national insurance number, if he has one, his most recent student loan account number, if any, and details of two persons known to him (regulation 19(2)).

Where the Secretary of State determines that the maximum amount of loan notified to a student in relation to an academic year should be increased, and this is not due to the eligible student failing to provide information promptly or providing inaccurate information, the student may apply for an additional amount which when added to the amount already applied for does not exceed the increased maximum (regulation 19(4)).

In any case where a student has received at least one instalment of loan in relation to an academic year and has not applied for the maximum amount to which he is entitled in relation to the academic year, he may apply once only to borrow an additional amount which when added to the amount already applied for does not exceed the increased maximum (regulation 19(7)).

A student who has applied for the maximum amount of loan in relation to an academic year which has been notified to him, and who has received at least one instalment of that loan, may apply for a hardship loan of not less than £100 and not more than £250 and which is a multiple of £25 (regulation 20(2)). He must satisfy the Secretary of State that due to exceptional financial hardship he may not be able to continue to attend for the balance of the academic year (regulation 20(4)). The Secretary of State shall determine the amount of hardship loan which he considers the student requires (regulation 20(4)). The student must then apply for the hardship loan not later than one month after he receives notice of this determination and not later than one month before the end of the academic year (regulation 20(5)).

A student's contribution to his fees and living costs, if any, in relation to an academic year is the aggregate of his income for the year and any parental or spouse's contribution (regulation 21). Contributions are calculated in accordance with Schedule 3. In calculating a student's income, income from certain sources, and the first elements of income from certain other sources, is disregarded (Schedule 3, paragraph 1(1)). There are special provisions for the calculation of income where the student is eligible for grant for fees as a national of another member State of the European Community, where the student makes any payment in pursuance of an obligation incurred before the first year of the course, where the student is a step-parent or parent of an eligible student, where the student has one or more dependent children, and where the student receives income in a currency other than sterling (Schedule 3, paragraph 1(3) to (7)).

A parental contribution ascertained in accordance with Part II of Schedule 3 is applicable except in certain specified circumstances (paragraph 3), and is calculated under paragraph 4 of that Part on the basis of the parent's gross income in the preceding tax year less certain deductions (paragraph 5(1) and (2) and paragraph 6). In certain circumstances the contribution is calculated on the basis of income for the current tax year (paragraph 5(3)). There are also special provisions for where one of the eligible student's parents dies before or during the year in respect of which the resources of the student fall to be ascertained (paragraph 5(4)).

The deductions made from the parent's gross income include, in certain circumstances, allowances for other dependants, the gross amount of any sums paid as interest which qualify for tax relief, half of the gross amount of any life assurance premiums which qualify for tax relief, the gross income of any other premiums or sums which qualify for tax relief, amounts for domestic assistance, additional

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expenditure incurred by reason of the parent living in a place where the cost of living is higher than that in the United Kingdom, an amount where the parent is an eligible student, and any payments made in pursuance of an order of a competent court for the benefit of a child who is not his child of whom he has custody or care or provides accommodation (Schedule 3, paragraph 6).

Provisions for ascertaining a spouse's contribution in Schedule 3 Part III broadly mirror those for parental contributions. There are special arrangements for calculating the spouse's contribution where a student marries, or a marriage is terminated, during any academic year for which the contribution falls to be ascertained (Schedule 3, paragraphs 8(3) and (4)).

The maximum amounts of grants or loans for which a student is eligible are the amounts remaining after subtracting his contribution from the maximum amount of any grant for fees (except in respect of attendance on a course at an institution which is neither maintained nor assisted out of public funds, or on a course for the initial training of teachers other than a first degree course), grants for dependants, an element of loan for living costs (except where the student is eligible for loans at 50 per cent. of the rates specified in regulation 18) and grant for travel costs (regulation 22).

Where a lower maximum grant for fees is applicable in relation to an academic year, or where none is applicable because the student is participating in the ERASMUS scheme, it is assumed in applying the student contribution that the usual maximum grant for fees is available. This is so that the contribution is applicable to other elements of support in the same way that it would be if the usual grant for fees were available (regulation 22(3)).

Where the student's contribution exceeds the maximum amounts of grant for fees, grants for dependants, loan for living costs and grant for travel costs to which it is applicable, and where his income includes income from a scholarship, studentship or similar award payable in connection with the student's attendance on the course, or income from an employer who has given the student paid leave to attend the course, the balance of the contribution, or such part of it as does not exceed the amount of such income, is applied to reduce elements of support not already reduced, that is: non-means-tested loan for living costs; non-means-tested grant for fees; grant for students who have left care; and grant for disabled students' living costs (regulation 22(7) and (8)).

Grants for fees are paid on receipt of a valid request for payment from the academic authority, but not earlier than three months after the beginning of the academic year and not later than ten weeks after the end of that period. Payments are to be made promptly where the request is received after that period. No payments shall be made if within that three month period the eligible student ceases to attend the course and the academic authority has determined or agreed that he will not commence attending again during the academic year in respect of which the fees are payable (regulation 23(1) to (3)).

Grants for dependants and loans (other than hardship loans) are payable in respect of three quarters of the academic year (regulation 24(2)). Payments are made in up to three instalments, depending on whether the first instalment is to be paid in the first, second or third quarter (regulation 24(3)), and in such manner as the Secretary of State considers appropriate. He may make it a condition of entitlement to payment that the eligible student provides particulars of a United Kingdom bank or building society account into which payment may be made by electronic transfer (regulation 24(4)). Support is not payable in respect of a quarter beginning after a student has withdrawn from, abandoned or been expelled from his course. Nor is it normally payable in respect of a quarter during any part of which the student is absent from his course (regulation 24(5) to (8)).

There are provisions for circumstances where, following payment of any amount of grant for dependants or loan, the Secretary of State makes a determination of that amount which either increases or decreases it (regulation 24(9) to (11)). Where it is increased, the additional amount is payable in instalments in accordance for which the student is eligible in respect of an academic year. Therefore, the first instalment is paid as soon as reasonably practicable and subsequent instalments with instalments already payable. Where it is decreased, the amount of the decrease is deducted from instalments remaining to be paid. Where it exceeds the amount of instalments remaining to be

paid, the balance is, in the case of grant, subtracted from other grant for which the student is eligible in respect of the academic year. Where a balance remains (be it grant or loan), it is recovered in accordance with regulation 25.

Overpayments of grant for fees are recovered from the academic authority (regulation 25(1)). Overpayments of grant for living costs are recovered by subtracting them from any other grant for which the student is eligible in relation to the academic year, or if necessary any other academic year, or from any payment of loan, or by taking such other action as is available (regulation 25(2)).

Where an overpayment of loan has been made due to the eligible student failing to provide information promptly or providing inaccurate information, it may be subtracted from the amount of loan for which the student is eligible in respect of any other academic year, or from any grant for which the student is eligible in relation to the academic year, or if necessary any other academic year, or by taking such other action as is available (regulation 25(3) and (5)). Where an overpayment of the loan has not been so made, it is not recoverable but may be deducted from the amount of loan for which the student is eligible in relation to any other academic year (regulation 25(4)).

Loans shall bear interest at a rate which results in an annual percentage rate of charge equal to the percentage increase between the retail prices all items index published for March 1998 and that for March 1999, unless this exceeds the rate specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974, in which case they shall bear interest at that rate. Interest is calculated daily and compounded monthly (regulation 26).

Borrowers may repay their loans at any time without penalty, but shall not be required to repay any moneys they owe before 6th April 2000. The liability of a borrower will be cancelled if he dies; if he is not in breach of any obligation to repay any student loan and he reaches the age of 65, or if he receives a disability related benefit and the Secretary of State is satisfied that because of his disability he is permanently unfit for work (regulation 27).

Instalments of student loans paid or payable after the commencement of a student's bankruptcy, or in Scotland the sequestration of his estate, shall not form part of his estate, and accordingly cannot be claimed by his trustee (regulation 28).