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STATUTORY INSTRUMENTS

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**2000 No. 2012**

**The Education Maintenance Allowance  
(Pilot Areas) Regulations 2000**

**Citation and commencement**

1. These Regulations may be cited as the Education Maintenance Allowance (Pilot Areas) Regulations 2000 and shall come into force on 21st August 2000.

**Interpretation**

2.—(1) In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>;

“academic year” means the period from 1st September in one year to 31st August in the next year, except that where the first term of an institution to begin after July begins before 1st September, the academic year is the period beginning at the start of that term and ending immediately before the start of the first such term in the following year;

“advanced education” and “full-time education” have the same meaning as in regulation 1(2) of the Child Benefit (General) Regulations 1976<sup>(2)</sup>;

“education maintenance allowance learning agreement” has the meaning given in regulation 7;

“GCSE” means a General Certificate of Secondary Education;

“GNVQ” means a General National Vocational Qualification;

“NVQ” means a National Vocational Qualification;

“parent”—

(a) in regulation 5 and 6(1)(c) means the mother or father of the student (including the mother or father by adoption) but not any other person with parental responsibility for the student, and

(b) elsewhere in these regulations has the same meaning as in section 576 of the Education Act 1996;

“period of eligibility” in relation to a student means the period beginning at the end of the student’s final school year and ending after—

(a) 4 academic years, where the student had a statement of special educational needs made under section 324 of the Education Act 1996 during the school year in which he ceased to be of compulsory school age or where the student is a vulnerable student, or

(b) 3 academic years in any other case;

“relevant area” means—

(a) the area of the relevant authorities except East Lancashire,

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(1) 1992 c. 4.

(2) S.I.1976/965; a relevant amending instrument is S.I. 1987/357.

(b) in East Lancashire the following wards: Burnley, Hyndburn, Pendle, Ribble Valley and Rossendale;

“relevant authority” means a local education authority specified in the Schedule(3);

“relevant educational establishment” means—

- (a) a school maintained by a local education authority,
- (b) an independent school within the meaning of section 463 of the Education Act 1996 other than one whose registration under section 465 of that Act is provisional only,
- (c) an institution within the further education sector, or
- (d) any other educational institution which the local education authority considers appropriate;

“relevant period” in relation to the payment of any allowance in respect of a student means the period starting on 30th June immediately before the start of the academic year in respect of which the allowance is paid and ending at the start of that academic year;

“vulnerable student” means a student who was ordinarily resident for a period of three consecutive months ending during the relevant period in Cornwall, Nottingham, Stoke on Trent or Walsall and,

- (a) is, at any time during the relevant period or the period of eligibility which applies to that student, in the opinion of the local authority estranged from his parents,
- (b) had a statement of special educational needs made under section 324 of the Education Act 1996 during the student’s final school year, or has a disability within the meaning of section 1 of the Disability Discrimination Act 1995(4),
- (c) has at any time been a looked after student since reaching the age of 11,
- (d) has at any time been permanently excluded from school while undergoing secondary education,
- (e) has at any time been identified by the youth offending team established under section 39 of the Crime and Disorder Act 1998(5) for the area as needing additional educational support,
- (f) has not, by the end of the student’s final school year, achieved NVQ level 1, GNVQ level 1 or any GCSE passes or obtained any qualifications of a higher standard,
- (g) is a parent to whom child benefit is paid under Part IX of the 1992 Act in respect of the person’s child,
- (h) has at any time been in receipt of invalid care allowance in accordance with section 70 of the 1992 Act,
- (i) has at any time participated in the provision known as Life Skills forming part of the programme known as the Learning Gateway;

“week” means a period of 7 days beginning with a Monday.

(2) For the purposes of these Regulations a student is a looked after student if he is looked after by a relevant authority and in this paragraph “looked after” shall be construed in accordance with section 22 of the Children Act 1989(6).

(3) For the purposes of these Regulations a student is an independent student if the student is—

- (a) in the opinion of the Local Education Authority estranged from his parents;

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(3) All the relevant authorities are situated in England.

(4) 1995 c. 50.

(5) 1998 c. 37.

(6) 1989 c. 49.

(b) a parent to whom child benefit is paid under Part IX of the 1992 Act in respect of the person's child; or

(c) aged 19.

(4) Any reference in these Regulations to a person responsible for a pupil shall be construed in accordance with section 143 of the 1992 Act.

(5) Any reference in these Regulations to a student being educated otherwise than at an institution is a reference to a student being so educated under arrangements made by a relevant authority under section 19 of the Education Act 1996.

(6) Any reference in these Regulations to the student's final school year is a reference to—

(a) the school year in which the student was in a class in which the majority of the students reached the age of 16, where the student attended school; or

(b) the academic year in which the student reached the age of 16 where the student did not attend school.

### **Payment of education maintenance allowance**

**3.—**(1) Subject to the provisions of these Regulations a relevant authority may pay any of the allowances specified in regulation 8, 9, 10 or 11 in respect of any student over compulsory school age if—

(a) the condition specified in regulation 4 which is applicable to the student in question is satisfied;

(b) the condition specified in regulation 5 is satisfied, unless the student is one in respect of whom the condition specified in regulation 4 is satisfied by virtue of the student being a looked after student; and

(c) such of the conditions specified in regulation 6 as are applicable to the student in question are satisfied.

(2) Nothing in regulation 4 of the Local Education Authority (Post-Compulsory Education Awards) Regulations 1999(7) shall apply in relation to the payment of any of the allowances specified in regulation 8, 9, 10 or 11.

### **Residence condition**

**4.** The condition specified in this paragraph is—

(a) where the relevant area is the area of an authority specified in Part I of the Schedule and the relevant period is the period immediately before the academic year 2000/2001—

(i) unless sub-paragraph (ii) or (iii) applies, that a person responsible for the student was ordinarily resident in such a relevant area on any date during that relevant period and that child benefit was paid to that person under Part IX of the 1992 Act for the week in which that date falls,

(ii) where the student was an independent student, that the student was ordinarily resident in such a relevant area on any date during that relevant period, or

(iii) that the student was a looked after student at any time during that relevant period; and

(b) in any other case—

(i) unless sub-paragraph (ii) or (iii) applies, that a person responsible for the student was ordinarily resident in a relevant area for a period of three consecutive months

ending during the relevant period and that child benefit was paid to that person under Part IX of the 1992 Act for at least one week during that period,

- (ii) where the student was an independent student, that the student was ordinarily resident in a relevant area for a period of three consecutive months ending during the relevant period, or
- (iii) that the student was a looked after student for a period of three consecutive months ending during the relevant period.

### **Income condition**

5.—(1) The condition specified in this regulation is, subject to paragraph (6),—

- (a) if paragraph (2) applies, that the aggregate of the incomes of the student's parents did not, during the tax year ending before the start of the academic year in respect of which the allowance is paid, exceed the relevant amount;
- (b) if paragraph (3) applies, that the income of the student's parent with whom the student normally resides did not, during the tax year ending before the start of the academic year in respect of which the allowance is paid, exceed the relevant amount;
- (c) if paragraph (4) applies that the income of whichever of the student's parents as the authority determine did not, during the tax year ending before the start of the academic year in respect of which the allowance is paid, exceed the relevant amount; and
- (d) if paragraph (5) applies, that the income of the student did not, during the tax year ending before the start of the academic year in respect of which the allowance is paid, exceed the relevant amount.

(2) This paragraph applies where—

- (a) the student's parents live together as husband and wife (whether or not they are married to each other) and paragraph (5) does not apply; or
- (b) the student's parents do not live together as husband and wife, the student normally resides with one of his parents and neither paragraph (3) nor paragraph (5) applies.

(3) This paragraph applies where the student's parents do not live together as husband and wife, the student normally resides with one of his parents and either—

- (a) the income of the other parent cannot reasonably practicably be ascertained or verified, or
- (b) the income of the parent with whom the student normally resides does not include a maintenance payment.

(4) This paragraph applies where the student's parents do not live together as husband and wife, and the student does not normally reside with either of his parents but paragraph (5) does not apply.

(5) This paragraph applies where the student is an independent student.

(6) Where the condition contained in paragraph (1) is not satisfied but it appears to the local education authority (whether before or after the start of an academic year) that the income of the persons referred to in paragraph 1(a), (b), (c) or (d) (as appropriate to the student in question) is likely, during the tax year following that referred to in paragraph (1)—

- (a) not to exceed the relevant amount; and
- (b) to be not more than 85% of the person's income during the tax year referred to in paragraph (1),

the authority may determine that the condition contained in paragraph (1) is to be treated as satisfied.

(7) For the purposes of this regulation the income of a person is the person's total income within the meaning of section 835 of the Income and Corporation Taxes Act 1988(7).

(8) In this regulation—

“maintenance payment” means a periodical payment (not including an instalment of a lump sum) which—

- (a) is made pursuant to an order made by a court (whether in the United Kingdom or elsewhere) or under any arrangement made by the Child Support Agency pursuant to the Child Support Act 1991(8) or under a separation agreement; and
- (b) is made by:
  - (i) one of the parties to a marriage (including a marriage which has been dissolved and annulled) to or for the benefit and for the maintenance of the other party, or
  - (ii) one of the parents of the student to or for the benefit, and for the maintenance or education of the student.
- (c) is due at a time when—
  - (i) as regards a maintenance payment of the nature described in sub-paragraph (b)(i), the said parties are not living together as husband and wife, or
  - (ii) as regards a maintenance payment of the nature described in sub-paragraph (b)(ii) the parent making the payment does not reside in the same household as the student; and

“the relevant amount” means

- (a) £20,000, where the relevant authority is Barking and Dagenham, Brent, Camden, Ealing, Greenwich, Hackney, Halton, Hammersmith and Fulham, Haringey, Hartlepool, Islington, Kingston upon Hull, Lambeth, Lewisham, Newham, Salford, Sandwell, Southwark, Tower Hamlets, Waltham Forest, and Wandsworth,
- (b) £25,000, where the relevant authority is St. Helens, Wirral, Bradford, and Barnsley,
- (c) £30,000 in any other case.

### **Other Conditions**

6.—(1) The conditions specified in this regulation are—

- (a) that—
  - (i) where the relevant area is the area of an authority specified in Part I of the Schedule, the student's final school year was the 1998/1999 or 1999/2000 school year, if the student attended school, or the 1998/1999 or 1999/2000 academic year if he did not attend school,
  - (ii) where the relevant authority is specified in Part II of the Schedule, the student's final school year was the 1999/2000 school year if the student attended school or the 1999/2000 academic year if he did not attend school;
- (b) that regulation 6(1)(b) of the Education Maintenance Allowance (Pilot Areas) Regulations 1999(9) (signature of education maintenance allowance learning agreement) was complied with before 21st August 2000 or that—
  - (i) a parent of the student and the student have signed an education maintenance allowance learning agreement, unless the student is an independent student or a looked after student when he starts to attend the institution,

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(7) 1988 c. 1.

(8) 1991 c. 48.

(9) S.I. 1999/2168.

- (ii) a person nominated by the relevant authority and the student have signed an education maintenance allowance learning agreement, if the student is a looked after student when he starts to attend the institution, or
- (iii) the student has signed an education maintenance allowance learning agreement if the student is an independent student,

in each case relating to the student and to the institution which the student attends (or, if the student attends more than one institution, relating to each institution which the student attends) and that the education maintenance allowance learning agreement has in each case also been signed on behalf of the institution (or, as the case may be, each institution); and

- (c) that the student and the student's parents provide the relevant authority with such information and make such declarations as the authority may reasonably require.

(2) Where a student is to be educated otherwise than at a relevant educational establishment paragraph (1)(b) shall have effect as if—

- (a) references to attending the institution had effect as references to being educated otherwise than at an institution;
- (b) the reference to the institution which the pupil attends had effect as a reference to the education which the student is to be provided with; and
- (c) the reference to the education maintenance allowance learning agreement being signed on behalf of the institution was a reference to such agreement being signed on behalf of the local education authority.

### **Meaning of education maintenance allowance learning agreement**

7.—(1) For the purposes of these Regulations an education maintenance allowance learning agreement is a document—

- (a) specifying responsibilities which the institution intends to discharge in connection with the education of the student in question;
- (b) specifying, unless the student is an independent student, the responsibilities which the parents of the student are expected to discharge in connection with the education of the student in question; and
- (c) specifying or providing for the specification of the institution's expectations of the student, that is to say the expectations of the institution as regards—
  - (i) attendance,
  - (ii) the completion of tasks assigned to the student,
  - (iii) the conduct of the student,
  - (iv) any other appropriate matter; and
- (d) which states the effect of regulations 8, 9, 10 or 11.

(2) Where a student is to be educated other than at an institution paragraph (1) shall have effect as if—

- (a) for “the institution” there were substituted “the local education authority”; and
- (b) sub-paragraph (c)(i) were omitted.

### **Weekly allowance**

8.—(1) Except as provided in paragraph (7) and subject to paragraphs (2) and (3) an allowance (“a weekly allowance”) may be paid in respect of each week during which the student—

- (a) is in full-time education at a relevant educational establishment for the purpose of being provided with education which is not advanced education;
  - (b) is being educated otherwise than at such an establishment, is being provided with education which is not advanced education and, in the opinion of the relevant authority in question, is in full-time education; or
  - (c) is undertaking unsupervised study for the purposes of preparation for an examination which he is entering in connection with the education referred to in sub-paragraph (a) or (b).
- (2) A weekly allowance shall only be paid in respect of a week any weekday of which falls outside the term of the institution which the student attends if the student has during that week spent at least 12 hours in connection with the course which he is pursuing—
- (a) receiving instruction or tuition,
  - (b) undertaking unsupervised study or practical work, or
  - (c) taking part in any exercise, experiment or project for which provision is made in the curriculum of the course which the student is pursuing, and for the purpose of this paragraph no account shall be taken of time occupied by meal breaks or time spent on unsupervised study whether undertaken on or off the premises of the institution.
- (3) In paragraph (2) above “weekday” means any day other than a Saturday or Sunday.
- (4) No weekly allowance shall be paid—
- (a) in respect of any week if the institution has notified the relevant authority that in their opinion the student has without good reason failed to do everything that is expected of him in accordance with the education maintenance allowance learning agreement and, where the relevant authority is Coventry or Kingston upon Hull, if the institution has notified the relevant authority to this effect on at least one previous occasion during the term in question;
  - (b) in respect of any week which starts after the end of the period of eligibility;
  - (c) in a case where regulation 5(6) applies and the relevant authority determines after the beginning of the academic year that the condition contained in regulation 5(1) is to be treated as satisfied, in respect of any week in a term before the term following the date on which the relevant authority so determine;
  - (d) if payment of a weekly allowance has already been made in respect of the relevant number of terms;
  - (e) if payment of a weekly allowance has already been made, or would have been made but for sub-paragraph (a), in respect of 38 weeks in the academic year in question;
  - (f) in respect of any week in which the student is in receipt of a jobseeker’s allowance (payable under the Jobseekers Act 1995)(10) or a training allowance; or
  - (g) in respect of any week in which the student has not done everything expected of her because of pregnancy or confinement (but without prejudice to regulation 11).
- (5) For the purpose of paragraph (4)(d)—
- (a) a payment of a weekly allowance is made “in respect of” a term if a payment is made, or would have been made but for paragraph (4)(a) in respect of any week falling within that term;
  - (b) the relevant number of terms is—

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(10) 1995 c. 18.

- (i) three times the number of terms in each academic year if, during the student's final school year, the student had a statement of special educational needs made under section 324 of the Education Act 1996,
  - (ii) three times the number of terms in each academic year if the student is a vulnerable student, and
  - (iii) in any other case, twice the number of terms in each academic year;
- (c) in a case where regulation 5(6) applies and the relevant authority determines after the beginning of the academic year that the condition contained in regulation 5(1) is to be treated as satisfied, payment of a weekly allowance shall be treated as having been made in respect of each term in the academic year in which the relevant authority so determines.
- (6) Where a student is educated otherwise than at a relevant educational establishment paragraph (2) shall not apply and paragraph (4) shall have effect as if for sub-paragraph (b) there were substituted—
- “(a) in respect of any week if the relevant authority are of the opinion that the student has without good reason failed to do everything that is expected of him in accordance with the education maintenance allowance learning agreement and, where the relevant authority is Kingston-upon-Hull or Coventry, if the relevant authority has formed this opinion in respect of at least one previous week during the term in question.”
- (7) No weekly allowance may be paid where the relevant authority is Suffolk, Sunderland or East Lancashire.
- (8) In the regulation “training allowance” means a payment made by the Secretary of State to a person in connection with his use of facilities arranged by the Secretary of State pursuant to section 2 of the Employment and Training Act 1973<sup>(11)</sup>.

### **Termly bonus**

- 9.—(1) Except as provided in paragraph (6) or where paragraph (2) or (3) applies, and subject to paragraph (4), an allowance (“a termly bonus”) may be paid in respect of any term period where the institution has notified the relevant authority that in its opinion the student has attended the institution for the appropriate percentage of the hours for which he is expected to attend in accordance with the education maintenance allowance learning agreement and has otherwise done everything else that is expected of him under the learning agreement or had good reason for failing to do so.
- (2) Except as provided in paragraph (6) where a student has attended more than one institution a termly bonus may, subject to paragraph (4), be paid in respect of any term period where—
- (a) the local education authority determine (in the light of notifications from the institutions giving their opinion as to the numbers of hours for which the student has attended the institution and the number of hours for which he is expected to attend the institution in accordance with the education maintenance allowance learning agreement) that the student has attended the institutions taken together for the appropriate percentage of the aggregate of the hours which he is expected to attend in accordance with the learning agreements; and
  - (b) each institution has notified the relevant authority that the pupil has otherwise done everything else that is expected of him under the learning agreement.
- (3) Where a student is educated otherwise than at a relevant educational establishment a termly bonus may, subject to paragraph (4), be paid in respect of any term period where the local education authority are of the opinion that the student has done everything that is expected of him under the learning agreement.

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(11) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1998 (c. 19) and subsections (4) and (6) were repealed by the Employment Act 1989 (c. 38) Schedule 7 Part 1.



- (4) No termly bonus shall be paid—
  - (a) if a weekly allowance cannot be paid in respect of any week in that term by reason of regulation 8(4)(d); or
  - (b) in respect of any term which starts after the end of the period of eligibility.
- (5) In this regulation—
  - (a) “the appropriate percentage” is—
    - (i) where the relevant authority is Suffolk, East Lancashire or Sunderland, 90%, and
    - (ii) in any other case, 95%; and
  - (b) “term period” means—
    - (i) where the relevant authority is Suffolk, East Lancashire, or Sunderland, such part of the institution’s term as may be determined by the authority provided that there shall be two term periods in each term of the institution, and
    - (ii) in any other case, the institution’s term.
- (6) No termly bonus may be paid where the relevant authority is North East Lincolnshire or Worcestershire.

#### **Achievement bonus**

- 10.**—(1) Except as provided in paragraph (5) and subject to paragraph (2) an allowance (“an achievement bonus”) may be paid in respect of any student who achieves any learning goal arising from being in full time education.
- (2) No achievement bonus shall be paid in respect of any learning goal where the course which led to the achievement of such learning goal started after the end of the period of eligibility.
  - (3) Except in the case of a vulnerable student no achievement bonus shall be paid—
    - (b) if an achievement bonus has already been paid—
      - (i) three times, where during the student’s final school year, the student had a statement of special educational needs made under section 324 of the Education Act 1996, or
      - (ii) twice in any other case; or
    - (c) if an achievement bonus has already been paid in respect of another learning goal where the course which led to that learning goal ended in the same academic year as the course which led to the learning goal in question.
  - (4) In this regulation “learning goal” means a standard of achievement (whether taking the form of a qualification or not) which is specified in relation to the student in the education maintenance allowance learning agreement.
  - (5) No achievement bonus may be paid where the relevant authority is North East Lincolnshire or Worcestershire.

#### **Special allowance**

- 11.** Where the relevant authority is Cornwall, Nottingham, Stoke on Trent or Walsall an allowance may be paid in respect of any student who has not done everything that is expected of her in accordance with the education maintenance allowance learning agreement because of pregnancy or confinement if—
- (a) the period during which she did not do everything that was expected of her in accordance with the learning agreement does not exceed 18 weeks; and

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- (b) after the expiry of the period referred to in sub-paragraph (a) above, she does everything that is expected of her in accordance with the learning agreement for a continuous period of 4 weeks unless in the opinion of the institution (or the relevant authority where the student is educated otherwise than at a relevant educational establishment), she has good reason for failing to do so.

### **Revocation**

**12.** The Education Maintenance Allowance (Pilot Areas) Regulations 1999 and the Educational Maintenance Allowance (Pilot Access) (Amendment) Regulations 2000(**12**) are hereby revoked.

24th July 2000

*Tessa Blackstone*  
Minister of State,  
Department of Education and Employment