
STATUTORY INSTRUMENTS

2000 No. 2330

EDUCATION, ENGLAND AND WALES

The Education (Grants for Disabled
Postgraduate Students) Regulations 2000

<i>Made</i>	- - - -	<i>30th August 2000</i>
<i>Laid before Parliament</i>		<i>31st August 2000</i> <i>22nd September</i>
<i>Coming into force</i>	- -	<i>2000</i>

The Secretary of State for Education and Employment, in exercise of the powers conferred on the Secretary of State by sections 22(1) and (2), 42(6) and 43(1) of the Teaching and Higher Education Act 1998(1) hereby makes the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Education (Grants for Disabled Postgraduate Students) Regulations 2000 and shall come into force on 22nd September 2000.

Interpretation

2.—(1) In these Regulations—

“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;

“academic year” has the meaning given to it in paragraph (6);

“the Act” means the Teaching and Higher Education Act 1998;

“designated course” means a course designated by or under regulation 4;

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

“EEA migrant worker” has the meaning given to it in paragraph (5);

“eligible student” means a person whom the Secretary of State has determined is eligible for a grant in connection with his attendance at a course in accordance with regulation 3 or 6;

(1) 1998 c. 30. Section 22 is amended from a date to be appointed by section 146 of the Learning and Skills Act 2000 (c. 21).
(2) Cmnd. 2073.
(3) Cmnd. 2183.

“European Community” means the territory comprised by the member States of the European Community 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;

“grant” means a grant made in accordance with these Regulations;

“the Islands” means the Channel Islands and the Isle of Man;

“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⁽⁴⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽⁵⁾ and any reference to the child of a refugee includes a reference to a step-child;

“Research Council or similar body” means a body or institution mentioned in paragraph (7).

(2) For the purposes of these Regulations a person who is ordinarily resident in England and Wales, Scotland, Northern Ireland, the Channel Islands or the Isle of Man as a result of having moved from another of those areas for the purpose of attending—

- (a) his current course,
- (b) a previous designated course which, disregarding any intervening vacation, the student was attending immediately before attending his current course, or
- (c) his course designated by or under regulations made for the purposes of section 1 of the Education Act 1962⁽⁶⁾ or section 22 of the Act which, disregarding any intervening vacation, the student was attending immediately before attending the current course

shall be considered to be ordinarily resident in the place from which he moved.

(3) For the purpose of these Regulations, including for the purpose of determining whether a person is settled in the United Kingdom within the meaning of the Immigration Act 1971⁽⁷⁾ for the purposes of these Regulations, a person shall be treated as ordinarily resident in England and Wales, the United Kingdom, the United Kingdom and Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental responsibility for him, or any person having care of him when he is a child is, or was temporarily employed outside the United Kingdom, the United Kingdom and Islands, or as the case may be, outside the European Economic Area and paragraph 7(c) of the Schedule shall not apply in the case of such a person. Without prejudice to the foregoing, members of the regular naval, military or air forces of the Crown shall be treated as being temporarily employed within the meaning of this paragraph for any period during which they serve outside the United Kingdom as members of such forces.

(4) 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 these areas

shall be considered to have always been part of the European Community or European Economic Area as the case may be.

(4) Cmnd. 9171.

(5) Cmnd. 3906 (Out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Employment, Mowden Hall, Staindrop Road, Darlington DL3 9BG or the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH).

(6) 1962 c. 12.

(7) 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.

(5) 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 of workers within the Community⁽⁸⁾, as extended by the EEA Agreement; 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.

(6) In these Regulations “academic year” 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, but if students are required to begin attending the course during August or September and to continue attending through the autumn the academic year of the course shall be considered to begin in the autumn rather than the summer.

(7) In these Regulations—

- (a) “Research Council” means any of the following research councils—

- Biotechnology and Biological Sciences Research Council,
- Economic and Social Research Council,
- Engineering and Physical Sciences Research Council,
- Medical Research Council,
- Natural Environment Research Council,
- Particle Physics and Astronomy Research Council; and

- (b) “similar body” means either of the following institutions—

- the Arts and Humanities Research Board,
- the British Academy.

Eligible students

3.—(1) Subject to and in accordance with these Regulations a person shall be eligible for a grant in connection with his attendance at a designated course and in respect of an academic year which begins on or after 1st September 2000 if:

- (a) he is a person mentioned in the Schedule to these Regulations; and
- (b) the Secretary of State is satisfied that, by reason of a disability to which he is subject, he will be obliged to incur additional expenditure in respect of his attendance at his course.

(2) A person shall not be eligible under this regulation if—

- (a) there has been bestowed on him or paid to him in relation to his attendance on the course—
 - (i) a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968⁽⁹⁾ or article 44 of the Health and Personal Social

⁽⁸⁾ OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968 (II), p. 457).

⁽⁹⁾ 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c. 51), 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, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4).

- Services (Northern Ireland) Order 1972⁽¹⁰⁾ the amount of which is not calculated by reference to his income; or
- (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992⁽¹¹⁾; or
 - (iii) any allowance, bursary or award of similar description made by a Research Council or similar body; or
 - (iv) any payment by his institution for the purpose of meeting additional expenditure incurred by the student by reason of his disability; or
- (b) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive any support.
- (3) A person shall not be eligible for a grant for more than one designated course at any one time.
- (4) Where a person who meets the requirements of this regulation is notified of that fact by the Secretary of State under regulation 5(4) he shall thenceforth be an eligible student for the purposes of these Regulations.

Designated courses

- 4.—(1) A course shall be designated for the purposes of section 22(1) of the Act and regulations 3 and 6 if—
- (a) it is a course providing education the standard of which is higher than that of a first degree course and entry for which a first degree (or equivalent qualification) is normally required;
 - (b) it is a course—
 - (i) of at least one academic year's duration; and
 - (ii) in the case of a part-time course, the duration of which does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
 - (c) it is wholly provided by an educational institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
 - (d) it is not a course for the initial training of teachers.
- (2) For the purposes of these Regulations a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not it has entered an agreement with the student to provide the course.
- (3) For the purposes of paragraph (1) a university and any constituent college or institution in the nature of a college or a university shall be regarded as maintained or assisted by recurrent grants out of public funds if either the university or the constituent college or institution is so maintained or assisted.
- (4) For the purposes of paragraph (1) an institution shall not be regarded as maintained or assisted by recurrent grants out of public funds by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992⁽¹²⁾.
- (5) For the purposes of section 22 of the Act and regulations 3(1) and 6(2) the Secretary of State may designate courses under these Regulations which are not designated under paragraph (1).

⁽¹⁰⁾ S.I. 1972/1265 (N.I. 14).

⁽¹¹⁾ S.I. 1992/580.

⁽¹²⁾ 1992 c. 13; section 65(3A) was inserted by section 27 of the Teaching and Higher Education Act 1998 (c. 30).

Applications for grant

5.—(1) A person shall apply for a grant in respect of an academic year of a designated course by completing and submitting to the Secretary of State an application in such form as he may require, but which shall include a declaration signed by the student that:

- (a) the particulars given in the form are correct to the best of his knowledge and belief;
- (b) he will notify the Secretary of State (or if a local education authority is exercising functions in relation to his application by virtue of a determination under section 23(1)(a) of the Act he will notify them) of any change in them which might affect his eligibility for a grant; and
- (c) he will if required to do so repay to the Secretary of State any amount paid to him which for whatever reason exceeds the amount of grant to which he is entitled under these Regulations.

(2) An applicant shall demonstrate his eligibility for a grant by providing such evidence as the Secretary of State may require.

(3) The Secretary of State may take such steps and make such inquiries as he considers necessary to determine whether the applicant is eligible for a grant.

(4) If the Secretary of State considers that the applicant is eligible for a grant he shall:

- (a) where the application is the first to be made in connection with the applicant's attendance at the course, notify him of the fact that the applicant is an eligible student and the amount to which the Secretary of State considers he is entitled; and
- (b) in respect of any subsequent application, notify him of the amount to which the Secretary of State considers he is entitled.

Transfers of eligibility

6.—(1) An eligible student may request that the Secretary of State transfer his eligibility in any case where—

- (a) on the recommendation of the academic authority the eligible student starts to attend another course at the institution; or
- (b) with the written consent of the academic authorities of both institutions concerned, given on educational grounds, the eligible student starts to attend a course at another institution.

(2) Subject to paragraph (3) the Secretary of State, on being satisfied of the matters referred to in paragraph (1) and that the second course is a designated course, shall transfer the eligible student's eligibility, and thenceforth the eligible student shall for all purposes be an eligible student in connection with his attendance at the second course, whether or not he may have been eligible for a grant if he had applied under regulation 5.

(3) The Secretary of State may, after consulting the academic authority concerned, refuse to transfer eligibility under this regulation if he is satisfied that when the student applied for a grant he did not intend to complete the course to which his application related.

(4) An eligible student's eligibility for a grant may not be transferred after it has expired or been terminated under regulation 7.

Termination of eligibility

7.—(1) Subject to paragraph (2), an eligible student shall cease to be eligible for a grant on the expiry of the period ordinarily required for the completion of the course, and accordingly he shall then cease to be an eligible student.

(2) The Secretary of State may before or after an eligible student ceases to be an eligible student under paragraph (1) determine the he shall continue to be eligible for a grant for such further period

after the expiry of the period referred to in that paragraph as he specifies, and accordingly he shall be or be considered to have been an eligible student throughout that period until its expiry.

(3) Where an eligible student has withdrawn from a course in circumstances where the Secretary of State has not transferred or will not transfer his eligibility to another course under regulation 6, or has abandoned or been expelled from his course, the Secretary of State shall determine that he is no longer eligible for a grant, and on such determination he shall then cease to be an eligible student.

(4) Where an eligible student has shown himself by his conduct to be unfitted to receive a grant the Secretary of State may determine that he is no longer eligible for a grant, and on such determination he shall then cease to be an eligible student.

Information

8.—(1) Every applicant and every eligible student shall as soon as reasonably practicable after he is requested to do so provide the Secretary of State with such information as the Secretary of State considers necessary for the exercise of his functions under these Regulations.

(2) Every applicant and every eligible student shall forthwith inform the Secretary of State if any of the following occurs, and provide him with particulars—

- (a) he withdraws from, abandons or is expelled from his course;
- (b) he transfers to another course, at the same or a different institution, whether or not the new course is a designated course;
- (c) he ceases to attend his course and does not intend to or is not permitted to return for the remainder of the academic year;
- (d) he is absent from his course for more than 60 days due to illness, or is absent from his course for any period for any other reason;
- (e) the month for the start or completion of the course changes;
- (f) his home or term time address or telephone number changes.

(3) If the Secretary of State is satisfied that an eligible student has wilfully failed to comply with any requirement to provide information or has provided information which the student knows to be false in a material particular or has recklessly provided information which is false in a material particular he may determine that the student shall—

- (a) no longer be eligible for a grant; or
- (b) not be eligible for any particular amount of grant as he considers appropriate in the circumstances.

Amount of grant

9.—(1) An eligible student shall be eligible for a grant equal to additional expenditure which the Secretary of State is satisfied he is obliged to incur in respect of his attendance at the course by reason of a disability to which he is subject; but the amount of grant shall not exceed the amount referred to in paragraph (2).

(2) The amount referred to in this paragraph is such amount as the Secretary of State considers appropriate not exceeding **£5,000** in respect of each academic year.

Payment of grant

10.—(1) Subject to the following paragraph, the Secretary of State shall pay a grant for which a student is eligible in such instalments (if any) and at such times as he considers appropriate; and in the exercise of his functions under this paragraph he may make provisional payments pending the final calculation of the amount of grant for which the student is eligible.

(2) Payments shall be made in such manner as the Secretary of State considers appropriate, and he may make it a condition of entitlement to payment that the eligible student shall provide him with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

Overpayments

11. Any overpayment of grant shall be recovered in such one or more of the following ways as the Secretary of State considers appropriate in all the circumstances:

- (a) by subtracting the overpayment from a grant for which the student is eligible in respect of any other academic year;
- (b) by taking such other action for the recovery of a payment made without statutory authority as is available to him.

30th August 2000

Malcolm Wicks
Parliamentary Under-Secretary of State,
Department for Education and Employment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 3

ELIGIBLE STUDENTS

1. A person who on the first day of the first academic year of the course—
 - (a) is settled in the United Kingdom within the meaning of the Immigration Act 1971(13), and
 - (b) meets the residence conditions referred to in paragraph 7.
2. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so resident since he was recognised as a refugee, or who is the spouse, child or stepchild of such a refugee, in each case who meets the residence condition in paragraph 7(a).
3. A person who—
 - (a)
 - (i) has been informed 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, or
 - (ii) before 1st July 1993 applied to the Secretary of State for the Home Department for recognition as a refugee and who has been informed by a person acting under the authority of the Secretary of State for the Home Department that 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 United Kingdom and Islands throughout the period since he was granted leave to enter or remain

or who is the spouse, child or stepchild of such a person, where the person, or as the case may be the spouse, child or stepchild meets the residence conditions referred to in paragraph 7.
4. A person who is an EEA migrant worker who—
 - (a) is entitled to support 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(14) or, where he is a national of the United Kingdom, by virtue of 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 Article 7(2) and (3); and
 - (b) meets the residence conditions referred to in paragraph 7.
5. A person who is the spouse of an EEA migrant worker and who—
 - (a) is installed in the United Kingdom with his spouse, and
 - (b) meets the residence conditions referred to in paragraph 7.
- 6.—(1) A person who is the child of an EEA migrant worker and who—
 - (a) is entitled to support 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, and
 - (b) meets the residence conditions referred to in paragraph 7.

(2) For the purposes of this paragraph “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.

(13) 1971 c. 77; as 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.

(14) OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968(II), p. 475).

7. The residence conditions referred to above are that—
- (a) the person is ordinarily resident in England and Wales on the first day of the first academic year of the course;
 - (b) the person has been ordinarily resident throughout the three year period preceding the first day of the first academic year of the course, in the case of a person mentioned in paragraphs 1 or 3, in the United Kingdom and Islands, or, in the case of a person mentioned in paragraph 4, 5, or 6, in the European Economic Area; and
 - (c) his residence in the United Kingdom and Islands, or in the European Economic Area, as the case may be, has not during any part of the period referred to in sub-paragraph (b) been wholly or mainly for the purpose of receiving full-time education.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 22nd September 2000, are made under section 22 of the Teaching and Higher Education Act 1998. They make provision for grants to disabled postgraduate students to meet additional expenditure incurred in attending their courses by reason of their disability.

Eligible students are disabled students who meet the personal criteria in the Schedule and attend designated postgraduate courses, other than students already in receipt of an award from a research council or an NHS bursary or funding from their academic institution specifically to cover this type of additional expenditure. PGCE students (who are already covered by the Student Support Regulations) are also ineligible. The eligibility criteria are set out in regulation 3 and the Schedule.

Designated postgraduate courses are courses providing education the standard of which is higher than that of a first degree course and entry for which a first degree (or equivalent qualification) is normally required and which is of at least one academic year's duration, whether the course is a full-time or part-time one. The Regulations enable the Secretary of State to designate other courses (*regulation 4*).

The Regulations provide for the method of application for grant (*regulation 5*), transfers between courses (*regulation 6*), termination of eligibility (*regulation 7*) and the provision of information by students to the Secretary of State for the purpose of exercising his functions under the Regulations (*regulation 8*), on a similar basis to those applying to undergraduate student support.

An eligible student is eligible for a grant equal to additional expenditure which the Secretary of State is satisfied he is obliged to incur because of his disability in respect of his course attendance, subject to a maximum of £5,000 (*regulation 9*).

These Regulations enable the Secretary of State to pay grant at such time and in such manner as he considers appropriate. He may make it a condition of entitlement to payment that a student first provides details of a bank or building society account so that payments may be made by electronic transfer (*regulation 10*).

Provision is made for the recovery of overpayments (*regulation 11*).