

2006 No. 955

EDUCATION, ENGLAND AND WALES

**The Education (Student Support) (Amendment) Regulations
2006**

<i>Made</i>	- - - -	<i>28th March 2006</i>
<i>Laid before Parliament</i>		<i>6th April 2006</i>
<i>Coming into force</i>	- -	<i>30th April 2006</i>

The Secretary of State for Education and Skills makes the following Regulations in exercise of the powers conferred by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(a):

Citation and commencement

1. These Regulations may be cited as the Education (Student Support) (Amendment) Regulations 2006 and shall come into force on 30th April 2006.

Interpretation

2. In these Regulations—

“the 2005 Regulations” means the Education (Student Support) Regulations 2005(b) as amended by the Education (Student Support) (Amendment) Regulations 2005(c), the Education (Student Support) (Amendment) (No. 2) Regulations 2005(d) and the Adoption and Children (Miscellaneous Amendments) Regulations 2005(e);

“the 2006 Regulations” means the Education (Student Support) Regulations 2006(f).

Amendments to the 2005 Regulations

3. The 2005 Regulations are amended in accordance with regulations 4 to 27.

Amendment of regulation 2 of the 2005 Regulations

4. Omit the following definitions from regulation 2 of the 2005 Regulations—

- (1) “EEA Agreement”;
- (2) “EEA migrant worker”;

(a) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6; the Finance Act 2003 (c. 14), section 147 and the Higher Education Act 2004 (c. 8), sections 42 and 43 and Schedule 7.

(b) S.I. 2005/52.

(c) S.I. 2005/1341.

(d) S.I. 2005/2084.

(e) S.I. 2005/3482.

(f) S.I. 2006/119.

- (3) “European Economic Area”;
- (4) “student loan account number”; and
- (5) “Switzerland Agreement”.

5. Omit the words “and any reference to the child of a refugee includes a reference to a step-child” from the definition of “refugee” in regulation 2 of the 2005 Regulations.

6. Omit paragraphs (2), (3), (4) and (5) from regulation 2 of the 2005 Regulations.

Amendment of regulation 3 of the 2005 Regulations

7. Omit paragraph (9) of regulation 3 of the 2005 Regulations.

Amendment of regulation 4 of the 2005 Regulations

8. In sub-paragraph (a) of paragraph (2) of regulation 4, for “is mentioned in Schedule 2” substitute “falls within one of the categories set out in Part 2 of Schedule 2”.

Amendment of regulation 9 of the 2005 Regulations

9. For sub-paragraphs (a), (b) and (c) of paragraph (2) of regulation 9 of the 2005 Regulations, substitute—

- “(a) one of the events listed in regulation 11(16) occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of nine months beginning with the day on which the relevant event occurred;”.

Amendment of regulation 11 of the 2005 Regulations

10. For paragraphs (15) and (16) of regulation 11 of the 2005 Regulations, substitute—

“(15) Where one of the events listed in paragraph (16) occurs in the course of an academic year—

- (a) a student may qualify for fee support in accordance with this Part in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
- (b) fee support is not available in respect of any academic year beginning before the academic year in respect of which the relevant event occurred.

(16) The events are—

- (a) the student’s course becomes a designated course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 2);
- (c) a state accedes to the European Community where the student is a national of that state or the family member (as defined in Part 1 of Schedule 2) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;
- (e) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 2);
- (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 2; or
- (g) the student becomes the child of a Swiss national.”.

Amendment of regulation 13 of the 2005 Regulations

11. For paragraph (2) of regulation 13 of the 2005 Regulations, substitute—

“(2) An eligible student shall not qualify for a grant for living costs if the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.”.

12. For paragraphs (7) and (8) of regulation 13 of the 2005 Regulations, substitute—

“(7) Where one of the events listed in paragraph (8) occurs in the course of an academic year, a student may qualify for a grant in accordance with this Part in respect of all or part of that academic year but he does not qualify for a grant for living costs in respect of any academic year beginning before the relevant event occurred.

(8) The events are—

- (a) the student’s course becomes a designated course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 2);
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 2);
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 2; or
- (f) the student becomes the child of a Swiss national.”.

Amendment of regulation 17 of the 2005 Regulations

13. For paragraph (2) of regulation 17 of the 2005 Regulations, substitute—

“(2) The adult dependants’ grant is available in respect of a dependant of an eligible student who is either—

- (a) the eligible student’s partner; or
- (b) an adult dependant whose net income does not exceed £3,445.”.

14. For paragraph (5) of regulation 17 of the 2005 Regulations, substitute—

“(5) The amount of adult dependants’ grant calculated under regulation 20 in respect of an adult dependant shall be reduced by one half where—

- (a) the eligible student’s partner—
 - (i) is an eligible student; or
 - (ii) holds a statutory award; and
- (b) account is taken of that partner’s dependants in calculating the amount of support for which that partner qualifies or the payment to which he is entitled under the statutory award.”.

Amendment of regulation 19 of the 2005 Regulations

15. For paragraph (1) of regulation 19 of the 2005 Regulations, substitute—

“(1) An eligible student shall qualify in connection with his attendance on a designated course for the parents’ learning allowance if he has one or more dependants who are dependent children.”.

Amendment of regulation 24 of the 2005 Regulations

16. For paragraphs (3), (4) and (5) of regulation 24 of the 2005 Regulations, substitute—

“(3) An eligible student shall not qualify for a loan for living costs if the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.

(4) Where one of the events listed in paragraph (5) occurs in the course of an academic year—

(a) a student may qualify for a loan for living costs in respect of such quarters of that academic year as are specified in regulation 25(9) provided that he meets the conditions in paragraph (1); and

(b) a student shall not qualify for a loan for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(5) The events are—

(a) the student’s course becomes a designated course;

(b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 2);

(c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three year-period immediately preceding the first day of the first academic year of the course;

(d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 2);

(e) the student becomes a person described in paragraph 6(1)(a) of Schedule 2; or

(f) the student becomes the child of a Swiss national.”.

Amendment of regulation 34 of the 2005 Regulations

17. In sub-paragraph (a) of paragraph (2) of regulation 34 of the 2005 Regulations, for “is mentioned in Schedule 2” substitute “falls within one of the categories set out in Part 2 of Schedule 2”.

18. For paragraph (7) of regulation 34 of the 2005 Regulations, substitute—

“(7) An eligible part-time student shall not qualify for support under regulation 37(1)(b) or regulation 38 if the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.”.

19. For paragraphs (13) and (14) of regulation 34 of the 2005 Regulations, substitute—

“(13) Where one of the events listed in paragraph (14A) occurs in the course of an academic year—

(a) a student may qualify for a grant in respect of fees in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and

(b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(14) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g) or (h) of paragraph (14A) occurs in the course of an academic year—

(a) a student may qualify for support under regulation 37(1)(b) in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and

- (b) support of the kind referred to in regulation 37(1)(b) is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (14A) The events are—
- (a) the student’s course becomes a designated part-time course;
 - (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 2);
 - (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 2) of a national of that state;
 - (d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;
 - (e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three year-period immediately preceding the first day of the first academic year of the course;
 - (f) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 2);
 - (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 2; or
 - (h) the student becomes the child of a Swiss national.”.

Amendment of regulation 39 of the 2005 Regulations

20. For sub-paragraphs (a) and (b) of paragraph (3) of regulation 39 of the 2005 Regulations, substitute—

“(a) one of the events listed in regulation 34(14A) occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of six months beginning with the day on which the relevant event occurred.”.

Amendment of regulation 46 of the 2005 Regulations

21. In sub-paragraph (a) of paragraph (3) of regulation 46 of the 2005 Regulations, for “mentioned in Schedule 2” substitute “falls within one of the categories set out in Part 2 of Schedule 2”.

22. For paragraph (5) of regulation 46 of the 2005 Regulations, substitute—

“(5) An eligible postgraduate student shall not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.”.

23. After paragraph (8) of regulation 46 of the 2005 Regulations, insert—

“(9) Where one of the events listed in paragraph (10) occurs in the course of an academic year—

- (a) a student may qualify for a grant under this Part in respect of that academic year in accordance with this Part; and
- (b) a grant of the kind available under this Part is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(10) The events are—

- (a) the student’s course becomes a designated postgraduate course;

- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 2);
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 2);
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 2;
- (f) the student becomes the child of a Swiss national.”.

Omission of Part 11 of the 2005 Regulations

24. Omit Part 11 of the 2005 Regulations.

Substitution of Schedule 2 to the 2005 Regulations

25. For the text of Schedule 2 to the 2005 Regulations, substitute the text set out in Schedule 1 to these Regulations.

Amendment of Schedule 5 to the 2005 Regulations

26. In paragraph 4(1)(b) and paragraph 5(2)(a) of Schedule 5 to the 2005 Regulations, insert after the words “Income and Corporation Taxes Act 1988”—

“or under section 188 of the Finance Act 2004(a)”.

27. In paragraph 4(2) of Schedule 5 to the 2005 Regulations—

- (a) for the words “Where the only paragraph from 1 to 7 of Schedule 2 into which an eligible student falls is paragraph 7”, substitute “Where the only paragraph in Part 2 of Schedule 2 into which the eligible student falls is paragraph 9”;
- (b) for the words “paragraph 1 of Schedule 2” substitute “paragraph 2 of Schedule 2”; and
- (c) for the words “any paragraph of Schedule 2” substitute “any paragraph of Part 2 of Schedule 2”.

Amendment of the 2006 Regulations

28. The 2006 Regulations are amended in accordance with regulations 29 to 40.

Amendment of regulation 2 of the 2006 Regulations

29. After the definition of “borrower” in regulation 2 of the 2006 Regulations, insert—

““college fee loan” means a loan pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act in respect of the college fees payable by a student to a college or permanent private hall of the University of Oxford or to a college of the University of Cambridge;”.

30. For the definition of “fees” in regulation 2 of the 2006 Regulations, substitute—

““fees” has the meaning given in section 41(1) of the 2004 Act except in the case of college fees;”.

(a) 2004 c. 12.

Amendment of regulation 9 of the 2006 Regulations

31. For paragraph (b) of paragraph (2) of regulation 9, substitute—

“(b) the applicant is making a separate application for a fee loan, a fee contribution loan, a loan for living costs or a college fee loan or is applying for an additional amount of fee loan under regulation 20(4) or 20(10), an additional amount of fee contribution loan under regulation 31(5), an additional amount of loan for living costs under regulation 68(3) or an additional amount of college fee loan under paragraph 14(2) of Schedule 3A, in which case the application must reach the Secretary of State not later than one month before the end of the academic year in respect of which he is applying for support;”.

Amendment of regulation 14 of the 2006 Regulations

32. For regulation 14 of the 2006 Regulations, substitute—

“14. The events are—

- (a) the student’s course becomes a designated course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 1);
- (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (e) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (g) the student becomes the child of a Swiss national.”.

Amendment of regulation 41 of the 2006 Regulations

33. For paragraph (2) of regulation 41 of the 2006 Regulations, substitute—

“(2) The adult dependants’ grant is available in respect of a dependant of an eligible student who is either—

- (a) the eligible student’s partner; or
- (b) an adult dependant whose net income does not exceed £3,530.”.

Amendment of regulation 43 of the 2006 Regulations

34. For paragraph (1) of regulation 43 of the 2006 Regulations, substitute—

“(1) An eligible student qualifies in connection with his attendance on a designated course for the parents’ learning allowance if he has one or more dependants who are dependent children.”.

Amendment of regulation 44 of the 2006 Regulations

35. For paragraph (4) of regulation 44 of the 2006 Regulations, substitute—

“(4) The amount of adult dependants’ grant calculated under paragraph (1) in respect of an adult dependant is reduced by one half where—

- (a) the eligible student’s partner—
 - (i) is an eligible student; or

- (ii) holds a statutory award; and
- (b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which he is entitled under the statutory award.”.

Insertion of a new Part in the 2006 Regulations

36. After regulation 70, insert—

“PART 6A COLLEGE FEE LOANS

70A. A college fee loan is available to an eligible student in accordance with Schedule 3A.”.

Amendment of regulation 84 of the 2006 Regulations

37. For paragraphs (12) and (13) of regulation 84 of the 2006 Regulations, substitute—

“(12) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g) or (h) of paragraph (13) occurs in the course of an academic year—

- (a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and
- (b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(13) The events are—

- (a) the student's course becomes a designated part-time course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 1);
- (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three year-period immediately preceding the first day of the first academic year of the course;
- (f) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (h) the student becomes the child of a Swiss national.”.

Substitution of Schedule 1 to the 2006 Regulations

38. For the text of Schedule 1 to the 2006 Regulations, substitute the text set out in Schedule 1 to these Regulations.

Insertion of a new Schedule to the 2006 Regulations

39. After Schedule 3 to the 2006 Regulations, insert Schedule 3A as set out in Schedule 2 to these Regulations.

Amendment of Schedule 4 to the 2006 Regulations

40. For paragraph (f) of sub-paragraph (1) of paragraph 2 of Schedule 4 to the 2006 Regulations, substitute—

“(f) he was looked after by a local authority (within the meaning of section 22 of the Children Act 1989(a)) throughout any three-month period ending on or after the date on which he attained the age of 16 and before the first day of the first academic year of the course (the “relevant period”) provided that he has not in fact at any time during the relevant period been under the charge or control of his parents;”.

Bill Rammell

Minister of State

Department for Education and Skills

28th March 2006

SCHEDULE 1

Regulations 25 and 39

“ELIGIBLE STUDENTS

PART 1

Interpretation

1.—(1) For the purposes of this Schedule—

“Directive 2004/38” means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004(b) on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EC national” means a national of a Member State of the European Community;

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

“EEA frontier self-employed person” means an EEA national who—

- (a) is a self-employed person in England; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” means an EEA national who—

- (a) is a worker in England; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

(a) 1989 c. 41.

(b) OJ L158, 30.04.2004, p77-123.

(c) Cm. 2073.

(d) Cm. 2183.

“EEA migrant worker” means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” means a Member State of the European Economic Area;

“employed person” means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“European Economic Area” means the area comprised by the European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

unless otherwise indicated, “family member” means—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
 - (i) his spouse or civil partner;
 - (ii) his child or the child of his spouse or civil partner; or
 - (iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
 - (i) his spouse or civil partner; or
 - (ii) his child or the child of his spouse or civil partner;
- (c) in relation to an EC national who is not self sufficient—
 - (i) his spouse or civil partner; or
 - (ii) direct descendants of his or of his spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or his spouse or civil partner;
- (d) in relation to an EC national who is self-sufficient—
 - (i) his spouse or civil partner;
 - (ii) direct descendants of his or of his spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or his spouse or civil partner; or
 - (iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
 - (i) his spouse or civil partner; or
 - (ii) direct descendants of his or his spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or his spouse or civil partner;

“person with leave to enter or remain” means a person who—

- (a) has been informed by a person acting under the authority of the Secretary of the 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 to 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;

“right of permanent residence” means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

“self-employed person” means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“self-sufficient” means self-sufficient within the meaning of Article 7(1)(b) of Directive 2004/38;

“settled” has the meaning given by section 33(2A) of the Immigration Act 1971(a);

“Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999(b) and which came into force on 1st June 2002;

“Swiss employed person” means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” means a Swiss national who—

- (a) is an employed person in England; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” means a Swiss national who—

- (a) is a self-employed person in England; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to his residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“United Kingdom national” means a person who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties;

“worker” means a worker within the meaning of Article 7 of Directive 2004/38 or the EEA Agreement, as the case may be;

(2) For the purposes of this Schedule, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly.

(3) For the purposes of this Schedule, a person who is ordinarily resident in England, Wales, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the current course; or
- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the current course,

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

(4) For the purposes of this Schedule, a person is to be treated as ordinarily resident in England, the United Kingdom and Islands or in the territory comprising the European Economic Area and Switzerland if he would have been so resident but for the fact that—

- (a) he;

(a) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).
(b) Cm. 4904.

- (b) his spouse or civil partner;
- (c) his parent; or
- (d) in the case of a dependent direct relative in the ascending line, his child or child's spouse or civil partner,

is or was temporarily employed outside England, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(5) For the purposes of sub-paragraph (4), temporary employment outside of England, the United Kingdom and Islands or the territory comprising the European Economic Area and Switzerland includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside of the territory comprising the European Economic Area and Switzerland as members of such forces.

(6) For the purposes of this Schedule 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,
is to be considered to have always been a part of the European Economic Area.

PART 2

Categories

Persons who are settled in the United Kingdom

2.—(1) A person who on the first day of the first academic year of the course—

- (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in England;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

3.—(1) A person who—

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (b) is ordinarily resident in England on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and

- (d) in a case where his ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

Refugees and persons with leave to enter or remain

- 4. A person who—
 - (a) is either—
 - (i) 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
 - (ii) the spouse, civil partner, child or step-child of a person mentioned in paragraph (i); and
 - (b) is ordinarily resident in England on the first day of the first academic year of the course.
- 5. A person who—
 - (a) is either—
 - (i) a person with leave to enter or remain; or
 - (ii) the spouse, civil partner, child or step-child of a person with leave to enter or remain;
 - (b) is ordinarily resident in England on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

Workers, employed persons, self-employed persons and their family members

- 6.—(1) A person who—
 - (a) is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in paragraph (iv) or (v);
 - (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.
- (2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).
- 7. A person who—
 - (a) is ordinarily resident in England on the first day of the first academic year of the course;
 - (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

- (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers^(a), as extended by the EEA Agreement.

Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence after having been settled in the United Kingdom;
- (c) is ordinarily resident in England on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where his ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if he is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if he goes to the state within the territory comprising the European Economic Area and Switzerland of which he is a national or of which the person in relation to whom he is a family member is a national.

EC nationals

9.—(1) A person who—

- (a) is either—
 - (i) an EC national on the first day of the first academic year of the course; or
 - (ii) a family member of a such a person;
- (b) is—
 - (i) attending a designated course in England; or
 - (ii) undertaking a designated part-time course or a designated postgraduate course in England;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

^(a) OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(4).

(3) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national on the first day of the first academic year of the course is treated as being satisfied.

10.—(1) A person who—

- (a) is an EC national other than a United Kingdom national on the first day of the first academic year of the course;
- (b) is ordinarily resident in England on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where his ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

Children of Swiss nationals

11. A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in England on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c)."

SCHEDULE 2

Regulation 36

“SCHEDULE 3A

Regulation 70A

COLLEGE FEE LOANS

Interpretation

1. In this Schedule—

- (a) “qualifying course” means a full-time designated course that is provided by the University of Oxford or the University of Cambridge and—
 - (i) is listed in regulation 5(6);
 - (ii) leads to qualification as a social worker; or
 - (iii) in respect of any academic year of which the student is eligible to receive a payment under a healthcare bursary the amount of which is calculated by reference to his income or a Scottish healthcare bursary the amount of which is calculated by reference to his income;
- (b) “qualifying student” means a person who meets the conditions in paragraph 3;
- (c) “standard academic year” means an academic year of the qualifying course that would be taken by a person who does not repeat any part of the course and who enters the course at the same point as the qualifying student.

Availability of college fee loans

2. A person qualifies for a college fee loan in connection with his attendance on a qualifying course in accordance with this Schedule.

3. A person qualifies for a college fee loan if he meets the following conditions—

- (a) he is an eligible student who is not excluded from qualifying by paragraph 4 or 5 or he is treated as an eligible student by virtue of paragraph 6;
- (b) he has an honours degree from an institution in the United Kingdom;
- (c) he is taking a qualifying course which he begins on or after 1st September 2006;
- (d) he is a member of a college or a permanent private hall of the University of Oxford or a member of a college of the University of Cambridge; and
- (e) he is under the age of 60 on the first day of the first academic year of the qualifying course.

4. An eligible student who falls within paragraph 9 of Schedule 1 does not qualify for a college fee loan under these Regulations if he is ordinarily resident in Wales or Northern Ireland.

5. An eligible student who falls within paragraph 9 of Schedule 1 and who is ordinarily resident in Scotland does not qualify for a college fee loan if he is settled in the United Kingdom other than by reason of having acquired the right of permanent residence or if he is the family member of such a person.

6. A person is treated as an eligible student for the purposes of the college fee loan if none of the circumstances listed in regulation 4(3) applies and—

- (a) he would have fallen within paragraph 3, 6, 7, 10 or 11 of Schedule 1 if any requirement in those paragraphs to be ordinarily resident in England at a particular time had been a requirement to be ordinarily resident in Scotland at that time or if any requirement to be working or self-employed in England had been a requirement to be working or self-employed in Scotland; or
- (b) he is settled in the United Kingdom by virtue of a right of permanent residence and would have fallen within paragraph 8 of Schedule 1 if the requirement in that paragraph to be ordinarily resident in England at a particular time had been a requirement to be ordinarily resident in Scotland.

7. For the purposes of the college fee loan, references to an eligible student in regulations 6, 7, 8, 72, 80 and Schedule 3 include a person who falls within paragraph 6.

8. To receive a college fee loan, a qualifying student must enter into a contract with the Secretary of State.

9. A disabled student who is undertaking a qualifying course in the United Kingdom but who is not in attendance because he is unable to attend for a reason which relates to his disability is treated as if he were in attendance on the qualifying course for the purpose of qualifying for the college fee loan.

10. Where one of the events listed in paragraph 11 occurs in the course of an academic year—

- (a) a student may qualify for a college fee loan in accordance with this Schedule in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
- (b) a college fee loan is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

11. The events are—

- (a) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 1);
- (b) a state accedes to the European Community where the student is a national of that state or is the family member (as defined in Part 1 of Schedule 1) of a national of that state or would have been a family member of a national of that state if the requirement to be working or self-employed in England had been a requirement to be working or self-employed in Scotland;
- (c) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national or would have become a family member of an EC national if the requirement to be working or self-employed in England had been a requirement to be working or self-employed in Scotland;
- (d) the student acquires a right of permanent residence (as defined in Part 1 of Schedule 1);
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1 or would have become such a person if the requirement to be ordinarily resident in England and the requirement to be working or self-employed in England in paragraph 6 of Schedule 1 had been requirements to be ordinarily resident in Scotland or working or self-employed in Scotland;
- (f) the student becomes the child of a Swiss national.

12. A college fee loan is available in respect of each standard academic year of the qualifying course and in respect of one academic year of the qualifying course that is not a standard academic year.

13. Where a qualifying student is allowed to study the content of one standard academic year of the qualifying course over two or more academic years, for the purpose of determining whether the student qualifies for a college fee loan for those years, the first of such years of study is to be treated as a standard academic year and the following years of that kind are to be treated as academic years that are not standard academic years.

Amount of the college fee loan

14.—(1) The amount of the college fee loan in respect of an academic year of a qualifying course must not exceed the amount equal to the college fees payable by the student to his college or permanent private hall in connection with that year.

(2) Where a qualifying student has applied for a college fee loan of less than the maximum amount available in relation to the academic year, he may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the maximum amount available.

Transfers

15. Despite regulation 7, where a qualifying student transfers from one qualifying course to another—

- (a) the Secretary of State must transfer the student's status as a qualifying student to the other course on the request of the student unless the period of eligibility has terminated;
- (b) if the student transfers before the end of the academic year after applying for a college fee loan, the amount applied for is paid to the relevant college or permanent private hall in respect of the qualifying course to which the student transfers provided that the conditions in paragraph 17 are met and he cannot qualify for another college fee loan in respect of that academic year;
- (c) if the student transfers after the college fee loan is paid and before the end of the academic year, he cannot apply for another college fee loan in connection with the academic year of the qualifying course to which he transfers.

Contribution

16. Where the only support that a qualifying student is applying for is the college fee loan, no contribution is calculated.

Payment

17.—(1) The Secretary of State must pay the college fee loan for which a qualifying student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The Secretary of State must pay the college fee loan in one lump sum.

(3) The Secretary of State must not pay the college fee loan before—

- (a) she has received a valid request for payment from the college or permanent private hall; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) The college or permanent private hall is required to send an attendance confirmation (as defined in regulation 81(6)) to the Secretary of State and the Secretary of State must not pay the college fee loan in respect of the academic year until she has received that confirmation unless she determines that owing to exceptional circumstances, it would be appropriate to make a payment without receiving an attendance confirmation.

(5) The Secretary of State must not make a payment of college fee loan in respect of a qualifying course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend the course; and
- (b) the college or permanent private hall has determined or agreed that the student will not commence attending again during the academic year in respect of which the college fees are payable or at all.

Overpayment

18. Any overpayment of college fee loan is recoverable by the Secretary of State from the college or permanent private hall.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Support) Regulations 2005 (the “2005 Regulations”) and the Education (Student Support) Regulations 2006 (the “2006 Regulations”). The 2005 Regulations provide for support for students taking designated higher education courses in respect of an academic year beginning on or after 1st September 2005 and before 1st September 2006. The 2006 Regulations provide for support for students taking designated higher education courses in respect of an academic year beginning on or after 1st September 2006.

Amendments to the 2005 Regulations

Regulation 25 substitutes the text set out in Schedule 1 to these Regulations for Schedule 2 to the 2005 Regulations in order to implement the provisions of Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004 (OJ L158, 30.04.2004, p77-123) on the rights of citizens of the Union and their family members to move and reside freely in the territory of the member states so far as the Directive relates to student support. Certain categories of person who were not formerly eligible for student support under the 2005 Regulations will be eligible as a result of the Directive. To qualify for support under the 2005 Regulations, a student must fall within one of the categories set out in Schedule 2 to those Regulations. Schedule 2 to the 2005 Regulations is amended by these Regulations to include the categories of person who are eligible for student support as a result of the Directive. Consequential changes are made by regulations 4-6, 8-12, 16-23 and 27 of these Regulations to the 2005 Regulations. A copy of the Transposition Note in relation to the implementation of the Directive so far as it relates to student support is available from the Department for Education and Skills, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT or on the website of the Office of Public Sector Information at www.opsi.gov.uk. A copy has also been placed in the library of each House of Parliament.

Schedule 2 to the 2005 Regulations is also amended to take into account the circumstances of students who are settled in the United Kingdom and who have exercised a right of residence within the territory comprising the European Economic Area and Switzerland.

Regulations 7 and 24 remove transitional provisions in the 2005 Regulations relating to the introduction of civil partnerships that are now redundant.

Regulation 13 amends regulation 17 of the 2005 Regulations so that a student cannot qualify for the adult dependants’ grant in respect of an adult dependant or in respect of his partner if that adult dependant or partner is an eligible student in his own right or holds a statutory award.

Regulation 15 amends regulation 19 of the 2005 Regulations so that a student cannot qualify for the parents’ learning allowance in respect of his dependent child if that child is an eligible student in his own right or holds a statutory award.

Regulation 26 updates a statutory reference in Schedule 5 to the 2005 Regulations as a result of pensions tax simplification.

Amendments to the 2006 Regulations

Regulation 36 of and Schedule 2 to these Regulations introduce a new form of support namely a loan in respect of the college fees payable by a qualifying student to a college or permanent private hall of the University of Oxford or to a college of the University of Cambridge in connection with his attendance on a qualifying course. Regulations 29 and 30 make consequential amendments to the 2006 Regulations.

Regulation 33 amends regulation 41 of the 2006 Regulations so that a student cannot qualify for the adult dependants’ grant in respect of an adult dependant or in respect of his partner if that adult dependant or partner is an eligible student in his own right or holds a statutory award.

Regulation 34 amends regulation 43 of the 2006 Regulations so that a student cannot qualify for the parents' learning allowance in respect of his dependent child if that child is an eligible student in his own right or holds a statutory award.

Regulation 38 substitutes the text set out in Schedule 1 to the Regulations for Schedule 1 to the 2006 Regulations. The main amendment to Schedule 1 to the 2006 Regulations is to broaden one of the categories of eligible student to take into account the circumstances of students who are settled in the United Kingdom and who have exercised a right of residence within the territory comprising the European Economic Area and Switzerland. There are also some drafting amendments to Schedule 1 to the 2006 Regulations.

Regulation 40 amends one of the grounds on which a student is treated as an independent student for the purposes of the financial assessment.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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