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STATUTORY INSTRUMENTS

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**2008 No. 529**

**The Education (Student Support) Regulations 2008**

**PART 11**

**SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES**

**Eligible distance learning students**

**115.**—(1) An eligible distance learning student qualifies for support in connection with his undertaking a designated distance learning course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible distance learning student in connection with a designated distance learning course if in assessing his application for support the Secretary of State determines that the person falls within one of the categories set out in Part 2 of Schedule 1.

(3) A person is not an eligible distance learning student if—

(a) subject to paragraph (4), there has been bestowed on him or paid to him in connection with the distance learning course—

(i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to his income;

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007<sup>(1)</sup>; or

(iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income;

(b) he is in breach of any obligation to repay any loan;

(c) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18;

(d) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support; or

(e) subject to paragraph (5), he is a prisoner.

(4) Paragraph (3)(a) does not apply if—

(a) the person applying for support is a disabled student; and

(b) there has been bestowed on him or paid to him in connection with the distance learning course—

(i) a healthcare bursary the amount of which is calculated by reference to his income; or

(ii) a Scottish Healthcare Allowance whether or not the amount of such allowance is calculated by reference to his income.

(5) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison or is released from prison.

(6) For the purposes of paragraphs (3)(b) and (3)(c), “loan” means a loan made under any provision of the student loans legislation.

(7) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) only applies if the agreement was made—

- (a) before 25th September 1991; and
- (b) with the concurrence of the borrower’s curator or at a time when he had no curator.

(8) Subject to paragraphs (11) to (13), if a person satisfies the conditions in paragraph (9) or (10)—

- (a) paragraphs (2) and (3) do not apply to him; and
- (b) he is an eligible distance learning student for the purposes of this Part.

(9) The conditions in this paragraph are—

- (a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the current designated distance learning course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
- (b) the person was not ordinarily resident in Wales on the first day of the current designated distance learning course; and
- (c) the person’s status as an eligible distance learning student has not terminated.

(10) The conditions in this paragraph are—

- (a) the Secretary of State has previously determined that the person is—
  - (i) an eligible student in connection with a designated course;
  - (ii) an eligible distance learning student in connection with a designated distance learning course other than the current distance learning course; or
  - (iii) an eligible part-time student in connection with a designated part-time course;
- (b) the person’s status as an eligible student, eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current designated distance learning course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;
- (c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
- (d) the person’s status as an eligible distance learning student has not terminated.

(11) Where—

- (a) the Secretary of State determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which his status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is

pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002<sup>(2)</sup>),

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which he is applying for support.

(12) Where—

- (a) the Secretary of State determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which his status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which he is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Secretary of State determined that he was an eligible student or eligible part-time student, as the case may be, before 1st September 2007.

(14) An eligible distance learning student may not, at any one time, qualify for support for—

- (a) more than one designated distance learning course;
- (b) a designated distance learning course and a designated course;
- (c) a designated distance learning course and a designated part-time course;
- (d) a designated distance learning course and a designated postgraduate course.

### **Students becoming eligible during the course of the academic year**

**116.—(1)** Where one of the events listed in paragraph (4) 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.

(2) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) 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.

(3) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

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(2) [2002 c.41](#). Section 104 was amended by the [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(c. 19\)](#), Schedules 2 and 4 and the [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), section 9

- (a) a student may qualify for disabled distance learning students' allowance in respect of that academic year in accordance with this Part; and
  - (b) disabled distance learning students' allowance is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.
- (4) The events are—
- (a) the student's course becomes a designated distance learning 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;
  - (c) a state accedes to the European Community and 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;
  - (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
  - (h) the student becomes the child of a Swiss national; or
  - (i) the student becomes the child of a Turkish worker.

### **Designated distance learning courses**

**117.—(1)** A course is designated for the purposes of section 22(1) of the 1998 Act and regulation 115 if it is designated by the Secretary of State under this regulation.

(2) Subject to paragraph (4), the Secretary of State may designate a course under this regulation if in his opinion—

- (a) the course is mentioned in Schedule 2 other than a course for the initial training of teachers;
- (b) the course is a full-time course;
- (c) the course is of at least one academic year's duration; and
- (d) students undertaking the course in the United Kingdom are not required to be in attendance on it by the institution or institutions providing the course.

(3) For the purposes of determining whether the requirement in paragraph (2)(d) is satisfied the Secretary of State may disregard—

- (a) any requirement imposed by the institution or institutions providing the course to attend any institution for the purposes of—
    - (i) registration or enrolment;
    - (ii) an examination;
  - (b) any requirement imposed by the institution or institutions providing the course to attend any institution on a weekend or during any vacation;
  - (c) any period of attendance at the institution or institutions providing the course which a student may but is not required to complete by that institution or those institutions.
- (4) The Secretary of State may not designate a course as a designated distance learning course if—
- (a) it falls within paragraph 7 or 8 of Schedule 2; and

- (b) the governing body of a maintained school has arranged for the provision of the course to a pupil of the school.

### **Period of eligibility**

**118.**—(1) A student retains his status as an eligible distance learning student in connection with a designated distance learning course until the status terminates in accordance with this regulation or regulation 115.

(2) The period for which an eligible distance learning student retains his status is the “period of eligibility”.

(3) Subject to the following paragraphs and regulation 115, the period of eligibility terminates at the end of the academic year in which the eligible distance learning student completes the designated distance learning course.

(4) The period of eligibility terminates when the eligible distance learning student—

- (a) withdraws from his designated distance learning course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert his status under regulation 126, 127, 128 or 145; or
- (b) abandons or is expelled from his designated distance learning course.

(5) The Secretary of State may terminate the period of eligibility where the eligible distance learning student has shown himself by his conduct to be unfitted to receive support.

(6) If the Secretary of State is satisfied that an eligible distance learning student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Secretary of State may take such of the following actions as he considers appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 131.

(7) Where the period of eligibility terminates before the end of the academic year in which the eligible distance learning student completes the designated distance learning course the Secretary of State may, at any time, renew or extend the period of eligibility for such period as he determines.

### **Support for distance learning courses**

**119.**—(1) For the purposes of this regulation, the support available is—

- (a) a grant in respect of fees not exceeding the lesser of the following amounts—
  - (i) £1,180; and
  - (ii) the “actual fees”, being the amount of fees charged to the student in respect of an academic year of the designated distance learning course; and
- (b) a grant not exceeding £255 for books, travel and other expenditure in connection with the designated distance learning course.

(2) An eligible distance learning student does not qualify for support under paragraph (1)(b) if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.

- (3) An eligible distance learning student does not qualify for support under this regulation if—
- (a) he is a disabled student; and

- (b) there has been bestowed on him or paid to him in connection with the designated distance learning course—
- (i) a healthcare bursary the amount of which is calculated by reference to his income; or
  - (ii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income.
- (4) An eligible distance learning student does not qualify for support under this regulation unless the Secretary of State considers that he is undertaking the designated distance learning course in England.
- (5) An eligible distance learning student does not qualify for support under this regulation if he has undertaken one or more distance learning courses for eight academic years in aggregate and he has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (6).
- (6) The loans and grants are—
- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course pursuant to regulations made under section 22 of the 1998 Act;
  - (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(3); or
  - (c) a loan in respect of an academic year of a distance learning course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(4).
- (7) An eligible distance learning student does not qualify for support under this regulation if he holds a first degree from an educational institution in the United Kingdom.
- (8) For the purposes of paragraph (7), a degree is not to be treated as a first degree where—
- (a) it is a degree (other than an honours degree) that has been awarded to an eligible distance learning student who has completed the required modules, examinations or other forms of assessment for his first degree course; and
  - (b) the eligible distance learning student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

### Amount of support

**120.**—(1) Subject to paragraph (2) and regulation 126(6), the amount of support payable in respect of an academic year is determined as follows—

- (a) if at the date of his application the eligible distance learning student or his partner is entitled—
  - (i) under Part VII of the Social Security Contributions and Benefits Act 1992(5) to income support, housing benefit or council tax benefit; or

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(3) S.I. 1998/1760 (N.I. 14), to which there are amendments not relevant to these Regulations.

(4) 1980 c.44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2). Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998 and was amended by section 34(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(5) 1992 c. 4; Part VII was amended by the Housing Act 1991 (c. 52), Schedule 19; the Local Government Finance Act 1992 (c. 14), Schedule 9 and Schedule 14; the Jobseekers Act 1995 (c. 18), Schedule 2 and Schedule 3; the Housing Act 1996

- (ii) under Part 1 of the Jobseekers Act 1995(6) to income-based jobseeker's allowance or under section 2 of the Employment and Training Act 1973(7) to an allowance under the arrangements known as the New Deal;
- the maximum amount of support available under regulation 119(1) is payable;
- (b) where the relevant income is less than £16,090, the maximum amount of support available under regulation 119(1) is payable;
- (c) where the relevant income is £16,090, the maximum amount of support available under regulation 119(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 119(1)(a);
- (d) where the relevant income exceeds £16,090 but is less than £24,280, the maximum amount of support available under regulation 119(1)(b) is payable and the amount of support payable under regulation 119(1)(a) is the amount determined in accordance with paragraph (2);
- (e) where the relevant income is £24,280, the maximum amount of support available under regulation 119(1)(b) is payable and the amount of support payable under regulation 119(1)(a) is £50;
- (f) where the relevant income exceeds £24,280 but is less than £24,875, the maximum amount of support available under regulation 119(1)(b) is payable and no support is payable under regulation 119(1)(a);
- (g) where the relevant income is £24,875 or more but less than £26,825, the amount of support payable under regulation 119(1)(b) is the amount left after deducting from the maximum amount of support available under regulation 119(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £24,875, and no support is payable under regulation 119(1)(a);
- (h) where the relevant income is £26,825, the amount of support payable under regulation 119(1)(b) is £50, and no support is payable under regulation 119(1)(a);
- (i) where the relevant income exceeds £26,825, no support is payable under regulation 119(1).
- (2) Where paragraph (1)(d) applies, the amount of support payable under regulation 119(1)(a) is determined by deducting from the maximum amount of support available under regulation 119(1)(a) one of the following amounts—
- (a) £50 plus a further £1 for each complete £7.60 by which the relevant income exceeds £16,090; or
- (b) where the actual fees are less than £1,180, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between £1,180 and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under regulation 119(1)(a) is payable).

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(c. 52), Schedule 19 Part 6; the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8; the Health and Social Care Act 2001 (c. 15), Schedule 6 Part 3; the State Pension Credit Act 2002 (c. 16), Schedule 2 and Schedule 3, the Tax Credits Act 2002 (c. 21), Schedule 6; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, paragraphs 169 and 179, the Civil Partnership Act 2004 (c. 33), Schedule 24 and the Welfare Reform Act 2007 (c. 40), Sections 30(2) and 31(1), Schedule 3, Schedule 5 and Schedule 8.

(6) 1995 c. 18; Part 1 was amended by the Employment Rights Act 1996 (c. 18), Schedule 1; the Social Security Act 1998 (c. 14), Schedules 7 and 8; the Welfare Reform and Pensions Act 1999 (c. 30), Schedules 7, 8 and 1; the State Pension Credit Act 2002 (c. 16), Schedule 2; the National Insurance Contributions Act 2002 (c. 19), Schedule 1; the Income Tax (Earnings and Pensions) Act 2003 (c. 18), Schedule 6; the Civil Partnership Act 2004 (c. 33), Schedule 24 and S.I. 2006/343.

(7) 1973 c. 50; section 2 as substituted by the Employment Act 1988 (c. 19) was amended by the Employment Act 1989 (c. 38), Schedule 7. Subsections (3A) and (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47 in relation to Scotland only.

## Interpretation of regulation 120

121.—(1) For the purposes of regulation 120—

- (a) subject to sub-paragraph (b), “partner” means any of the following—
  - (i) the spouse of an eligible distance learning student;
  - (ii) the civil partner of an eligible distance learning student;
  - (iii) a person ordinarily living with an eligible distance learning student as if he were his spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which he is being assessed for support and where he began the specified designated distance learning course before 1st September 2005;
  - (iv) a person ordinarily living with an eligible distance learning student as if he were his spouse or civil partner where an eligible distance learning student begins the specified designated distance learning course on or after 1st September 2005;
- (b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—
  - (i) in the opinion of the Secretary of State, that person and the eligible distance learning student are separated; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible distance learning student;
- (c) “relevant income” has the meaning given in paragraph (2).

(2) Subject to paragraph (3), an eligible distance learning student’s relevant income is equal to his financial resources in the preceding financial year less—

- (i) £2,000 in respect of his partner;
- (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his partner; and
- (iii) £1,000 in respect of each other child who is dependent on the student or his partner.

(3) Where the Secretary of State is satisfied that an eligible distance learning student’s financial resources in the preceding financial year are greater than his financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, he may assess that student’s financial resources by reference to those resources in the current financial year.

(4) In this regulation, an eligible distance learning student’s financial resources in a financial year means the aggregate of his income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner.

(5) In this regulation—

- (a) “child” in relation to an eligible distance learning student includes any child of his partner and any child for whom he has parental responsibility;
- (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person is being assessed for support;
- (c) “dependent” means wholly or mainly financially dependent;
- (d) “financial year” means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;
- (e) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;
- (f) “preceding financial year” means the financial year immediately preceding the current financial year;



- (g) “specified designated distance learning course” means the course in respect of which the person is applying for support or, where the student’s status as an eligible distance learning student has been transferred to the current designated distance learning course as a result of one or more transfers of that status by the Secretary of State from a distance learning course (the “initial course”) in connection with which the Secretary of State determined the student to be an eligible distance learning student pursuant to regulations made under section 22 of the 1998 Act, the specified designated distance learning course is the initial course.

### **Disabled distance learning students’ allowance**

**122.**—(1) An eligible distance learning student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Secretary of State is satisfied he is obliged to incur by reason of a disability to which he is subject in respect of his undertaking a designated distance learning course.

(2) An eligible distance learning student does not qualify for the grant under this regulation if the only paragraph in Part 2 of Schedule 1 into which he falls is paragraph 9.

(3) An eligible distance learning student does not qualify for the grant under this regulation in respect of any academic year that is a bursary year.

(4) An eligible distance learning student does not qualify for the grant under this regulation unless the Secretary of State considers that he is undertaking the designated distance learning course in England.

(5) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Secretary of State considers appropriate in accordance with the student’s circumstances.

(6) The amount of the grant under this regulation must not exceed—

- (a) £20,000 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £5,030 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
- (c) the additional expenditure incurred—
  - (i) within the United Kingdom for the purpose of attending the institution;
  - (ii) within or outside the United Kingdom for the purpose of attending, as a part of his course, any period of study at an overseas institution or for the purpose of attending the Institute;
- (d) £1,680 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

### **Applications for support**

**123.**—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated distance learning course by completing and submitting to the Secretary of State an application in such form as the Secretary of State may require.

(2) The application must be accompanied by—

- (a) a declaration under regulation 124 completed by the academic authority; and
- (b) such additional documentation 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 an eligible distance learning student, whether he qualifies for support and the amount of support payable, if any.

(4) The Secretary of State must notify the applicant of whether he qualifies for support and, if he does qualify, the amount of support payable in respect of the academic year, if any.

(5) The general rule is that the application must reach the Secretary of State within a period of six months beginning with the first day of the academic year of the course in respect of which it is submitted.

(6) The general rule does not apply where—

- (a) one of the events listed in paragraph (4) of regulation 116 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;
- (b) the applicant is applying for the disabled distance learning students' allowance, in which case the application must reach the Secretary of State as soon as is reasonably practicable; or
- (c) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as he specifies.

#### **Declarations provided by academic authorities**

**124.**—(1) Subject to paragraph (2), the academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Secretary of State to accompany the application for support.

(2) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(3) In this Part, “declaration” means—

- (a) where the applicant is applying for support in connection with the designated distance learning course for the first time, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has undertaken at least two weeks of the designated distance learning course;
- (b) in any other case, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has enrolled to undertake the academic year of the designated distance learning course in respect of which he is applying for support.

(4) In this regulation, “course information” means—

- (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
- (b) certification by the academic authority that it considers the applicant is undertaking the designated distance learning course in England; and
- (c) in any case where the applicant is a disabled student, certification by the academic authority that it considers the applicant has chosen to undertake the designated distance learning course for a reason other than he is unable to attend a designated course for a reason which relates to his disability.

#### **Information**

**125.** Schedule 3 deals with the provision of information.

### **Transfer of status**

**126.**—(1) Where an eligible distance learning student transfers to another distance learning course, the Secretary of State must transfer the student's status as an eligible distance learning student to that course where—

- (a) he receives a request from the eligible distance learning student to do so;
  - (b) he is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
  - (c) the period of eligibility has not terminated.
- (2) The grounds for transfer are—
- (a) the eligible distance learning student starts to undertake another designated distance learning course at the institution;
  - (b) the eligible distance learning student starts to undertake a designated distance learning course at another institution; or
  - (c) after commencing a designated distance learning course for a first degree (other than an honours degree) the eligible distance learning student is, before the completion of that course, admitted to a designated distance learning course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible distance learning student who transfers under paragraph (1) is entitled to receive in connection with the academic year of the course to which he transfers the remainder of the support for which the Secretary of State has determined he qualifies in respect of the academic year of the course from which he transfers.

(4) The Secretary of State may re-assess the amount of support payable after the transfer.

(5) An eligible student who transfers under paragraph (1) after the Secretary of State has determined his support in connection with the academic year of the course from which he is transferring but before he completes that year may not apply for another grant under regulation 119(1)(b) or regulation 122 in connection with the academic year of the course to which he transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of support under regulation 119(1)(a) in respect of the academic years to and from which he transfers is the amount of support available in connection with the course with the highest actual fees as defined in regulation 119.

### **Conversion of status – eligible students transferring to designated distance learning courses**

**127.**—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated distance learning course at the same or at another institution, the Secretary of State must convert his status as an eligible student to that of an eligible distance learning student in connection with the course to which he is transferring where—

- (a) he receives a request from the eligible student to do so; and
- (b) the period of eligibility has not terminated.

(2) The following applies to a student who transfers under paragraph (1)—

- (a) where the Secretary of State has determined to pay an amount of disabled students' allowance to the student under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible distance learning student;
- (b) the maximum amount of disabled distance learning students' allowance to which the student would, apart from this regulation, be entitled in connection with his undertaking a designated distance learning course in respect of that academic year is reduced by one

third where the student became an eligible distance learning student in the second quarter of the academic year and by two thirds where he became such a student in a later quarter of that year;

- (c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled distance learning students' allowance payable to him for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and
- (d) where immediately before he became an eligible distance learning student he was eligible to apply, but had not applied for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum to which he was entitled, he may apply for such a loan or such additional amount of loan as if he had continued to be an eligible student; and in the circumstances mentioned in paragraph (3) the maximum amount or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

(3) Where the request under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be) is reduced by two thirds, and where the request is made during the second quarter of that year that amount is reduced by one third.

#### **Conversion of status – eligible distance learning students transferring to designated courses**

**128.**—(1) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated course at the same or at another institution, the Secretary of State must convert his status as an eligible distance learning student to that of an eligible student in connection with the course to which he is transferring where—

- (a) he receives a request from the eligible distance learning student to do so; and
  - (b) the period of eligibility has not terminated.
- (2) The following applies to a student who transfers under paragraph (1)—
- (a) where the Secretary of State has determined to pay an amount of disabled distance learning students' allowance to the student in periodic instalments no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;
  - (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which he may be entitled in respect of that year under Parts 4 to 6;
  - (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he became such a student in a later quarter of that year; and
  - (d) where an amount of disabled distance learning students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable to him under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled distance learning students' allowance paid to him for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

### **Payment of grants for fees**

**129.**—(1) Subject to paragraphs (2) and (3), the Secretary of State must pay the grant in respect of fees for which the student qualifies to the appropriate academic authority after a valid request for payment has been received.

(2) The Secretary of State may make payments under paragraph (1) at such times and in such instalments as he sees fit.

(3) The Secretary of State may make provisional payments under paragraph (1) in such cases as he deems appropriate.

### **Payment of grants for books, travel and other expenditure and disabled distance learning students' allowance**

**130.**—(1) Payments of the grant for books, travel and other expenditure and the disabled distance learning students' allowance may 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 distance learning student must provide him with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Secretary of State cannot make a final assessment on the basis of the information provided by the student, he may make a provisional assessment and payment of the grant for books, travel and other expenditure and the disabled distance learning students' allowance.

(3) The Secretary of State may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance in instalments.

(4) Subject to paragraph (5), the Secretary of State may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance at such times as he considers appropriate.

(5) The Secretary of State must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the disabled distance learning students' allowance before he has received a declaration under regulation 124 unless an exception applies.

(6) An exception applies if—

- (a) a disabled distance learning students' allowance is payable in which case that particular grant may be paid before the Secretary of State has received a declaration;
- (b) the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

### **Overpayments**

**131.**—(1) Any overpayment of a grant in respect of fees is recoverable by the Secretary of State from the academic authority.

(2) An eligible distance learning student must, if so required by the Secretary of State, repay any amount paid to him under this Part which for whatever reason exceeds the amount of grant to which he is entitled under this Part.

(3) The Secretary of State must recover an overpayment of grant for books, travel and other expenditure and disabled distance learning students' allowance unless he considers that it is not appropriate to do so.

(4) The methods of recovery are—

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

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- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
  - (b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.
- (5) A payment of the disabled distance learning students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.
- (6) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.
- (7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the disabled distance learning students' allowance unless the Secretary of State decides otherwise.
- (8) The circumstances are—
- (a) the Secretary of State applies all or part of the disabled distance learning students' allowance to the purchase of specialist equipment on behalf of the eligible distance learning student;
  - (b) the student's period of eligibility terminates after the relevant date; and
  - (c) the equipment has not been delivered to the student before the period of eligibility terminated.
- (9) The circumstances are—
- (a) the eligible distance learning student's period of eligibility terminates after the relevant date; and
  - (b) a payment of the disabled distance learning students' allowance in respect of specialist equipment is made to the student after the period of eligibility terminated.
- (10) Where there is an overpayment of the disabled distance learning students' allowance, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if he considers it is appropriate to do so.