STATUTORY INSTRUMENTS

1986 No. 1104 (S. 92)

EDUCATION, SCOTLAND

The Education (Assisted Places) (Scotland) Regulations 1986

Made - - - -	30*th June* 1986
Laid before Parliament	11*th July* 1986
Coming into Operation	1*st August* 1986

The Secretary of State, in exercise of the powers conferred on him by sections 75A(9) and (10) and 75B of the Education (Scotland) Act 1980(**a**), and of all other powers enabling him in that behalf, and after having consulted such bodies as appear to him to be appropriate and to be representative of participating schools in accordance with section 75A(11) of that Act, hereby makes the following regulations:-

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Education (Assisted Places) (Scotland) Regulations 1986 and shall come into operation on 1st August 1986.

Interpretation

2.—(1) In these regulations, except where the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say -

"the Act" means the Education (Scotland) Act 1980;

"assisted place" means any place at a participating school, in respect of which place fees are to be remitted in accordance with these regulations;

"assisted pupil" subject to regulation 13(1) means any pupil in attendance at a participating school who has been admitted to an assisted place at that school;

"child" includes a step-child and a child adopted in pursuance of adoption proceedings (and "father" and "mother" shall be construed accordingly); Declaring that notwithstanding the definition in section 135(1) of the Act, "child" includes a person who is over school age but has not attained the age of 20 years at the commencement of any school year of the participating school which he attends or proposes to attend in that year;

(**a**) 1980 c.44; sections 75A and 75B were inserted by section 5 of the Education (Scotland) Act 1981 (c.58).

"determination" in relation to a school means a determination made under section 75A(2) of the Act;

"employment" includes the holding of any office and any occupation for gain; and "employed" shall be construed accordingly;

"European Community" means the area comprised by the member states of the European Economic Community (including the United Kingdom) as constituted from time to time;

"fees" means -

(a) tuition and other fees the payment of which is a condition of attendance at a participating school excluding

(i) boarding fees;

(ii) such other charges if any as may be excluded in the determination relating to the school; and

(b) fees for public examinations paid by a participating school in respect of candidates from the school;

"financial year" has the meaning assigned thereto by regulation 8(1);

"first assisted year" has the meaning assigned thereto by regulation 3(3);

"income" and "relevant income" have the meanings respectively assigned thereto by regulation 9(1) and (2);

"national of a member state of the European Community" means any person who is a national of any member state of the European Community (including the United Kingdom) as constituted from time to time for the purposes of the Community Treaties;

"participating school" means a secondary school determined under section 75A(2) of the Act to be a participating school for the purposes of the scheme mentioned in section 75A(1) of the Act, and references to a school include references to the proprietors and managers thereof;

"scheme" means the scheme for the time being in force established and operated by the Secretary of State under section 75A(1) of the Act;

"school day" means any day during which the school is open for the attendance of pupils;

"school year" means a period of 12 months commencing on 1st August of any year;

"secondary school" means a grant aided or independent school for the provision of secondary education or of both primary and secondary education.

(2) Except where the context otherwise requires, any reference in these regulations to the parents of a child or assisted pupil is a reference -

(a) in the ordinary case, to his father and mother or, where one is dead, to the survivor and, should he remarry, his spouse;

(b) where his father or mother, having actual custody of him has married a person who is not his parent, to that parent and his spouse;

(c) where his parents, defined as in sub-paragraph *(a)* are divorced or, in any of the circumstances mentioned in paragraph (4), separated, to that one of them who has, or in pursuance of an order of a court is entitled to,

actual custody of the child or assisted pupil and, should that person being divorced remarry, his spouse;

(d) where he has no parents defined as in sub-paragraphs *(a)* to *(c)*, to his guardian or guardians (if any) or to any person or persons who have been granted custody in pursuance of an order of a court;

(e) where he has no parents so defined and no guardian, or where there is no order of a court granting custody, to the person or persons who have actual custody of the child or assisted pupil.

(3) Where -

(a) a child or assisted pupil either has no parents defined as in paragraph (2)*(a)*, *(b)* *(c)* or *(d)* or he has such parents whose whereabouts are unknown; and

(b) he is either received into the care of a local authority or is in the care of a voluntary organisation under the Social Work (Scotland) Act 1968(**a**),

then, for the purposes of these regulations he shall be treated as a child or assisted pupil whose parents have no income and subject thereto, any reference in these regulations to his parents shall be construed as a reference to the authority or organisation in whose care or under whose supervision he is.

(4) The circumstances referred to in paragraph (2)*(c)* are that the parents are separated under an order of a court of competent jurisdiction or by a deed of separation or, where they are not separated as aforesaid, that either it is not reasonably practicable to find one of the parents or that in pursuance of an order of a court -

(a) one parent is liable to make periodic payments to or for the benefit of the other or one or more of their children; or

(b) one parent has been given custody of, or access to, one or more of their children; or

(c) one parent is prohibited from entering the matrimonial home.

(5) In these regulations, any reference to a regulation or Schedule is a reference to a regulation of, or a Schedule to, these regulations and any reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule as the case may be.

PART II

ELIGIBILITY FOR ASSISTED PLACES

3.—(1) A child shall only be eligible for admission to an assisted place if all the conditions mentioned in this Part are, so far as relevant, satisfied in his case.

(2) Nothing in this regulation shall prevent a child from being admitted to an assisted place in advance of its being ascertained that such a condition is satisfied if the admission is subject to the condition being satisfied.

(3) In this Part "first assisted year" means the school year in which a child would first take up an assisted place if admitted thereto.

(**a**) 1968 c.49.

Conditions as to residence

4.—(1) It shall be a condition that the child shall either -

(a) have been ordinarily resident in the British Islands throughout the period of two years immediately preceding 1st January in the calendar year in which his first assisted year begins (hereinafter referred to as "the relevant date"); or

(b) in the case of such a child as is mentioned in paragraph (2) have been so ordinarily resident in the European Community; or

(c) in the case of a child who is a refugee as is mentioned in paragraph (3), have not been ordinarily resident outside the British Islands since he or, in the case mentioned in sub-paragraph (3)*(d)*, his parent, was recognised as a refugee or granted asylum or granted leave to enter or remain, as the case may be.

(2) The child referred to in paragraph (1)*(b)* is one who is resident in the British Islands on the relevant date and is the child of a national of a member state of the European Community who -

(a) where he is employed on the relevant date, is then in employment in the British Islands; or

(b) where he is not employed on that date (by reason of retirement or otherwise), was last employed in such employment.

(3) The child who is a refugee referred to in paragraph (1)*(c)* is -

(a) a child recognised by Her Majesty's Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**a**) as extended by the Protocol thereto which entered into force on 4th October 1967(**b**); or

(b) a child who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty's Government though not so recognised; or

(c) a child who has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for asylum or for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom, and has been granted leave to enter or remain accordingly; or

(d) a child who is the child of a person who is so recognised, or has been granted such asylum or leave to enter or remain in such circumstances.

Conditions as to age and education

5.—(1) It shall be a condition that the child shall have attained the age of 10 years on or before 31st July of the calendar year in which his first assisted year commences.

(2) A participating school shall not admit to an assisted place a child in relation to whom they are not satisfied that he will be committed throughout the whole

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(a) Cmnd. 9171.
(b) Cmnd. 3906 (Out of print: photocopies of the English text are available, free of charge, from the Scottish Education Department, Room 617B, 43 Jeffrey Street, Edinburgh EH1 1DN).

of his first assisted year and any subsequent assisted year to follow a course of school education comprising wholly or mainly secondary education.

Conditions as to income

6.—(1) It shall be a condition that the parents of the child when applying to the participating school for an assisted place, shall have furnished the school with -

(a) a declaration of relevant income for the financial year immediately preceding the school year in relation to which the application is made, or

(b) if such a declaration cannot be furnished, a declaration of relevant income for the financial year preceding that financial year and a declaration of estimated relevant income for that financial year; and

(c) such other information as may be specified for the purposes hereof by the Secretary of State.

(2) A participating school shall not admit to an assisted place a child whose fees for his first assisted year would not fall to be remitted in whole or in part in pursuance of Part III of these regulations.

PART III

REMISSION OF FEES

References to remission questions

7. For the purposes hereof "remission questions" mean the questions whether or not the parents of an assisted pupil are entitled to any remission of fees payable in respect of him and the extent of such remission.

References to financial years

8.—(1) For the purposes of this Part "financial year" means, subject to paragraph (2), a year ending with 5th April and, in relation to a particular school year, "preceding financial year" means the financial year preceding that school year and "current financial year" means the financial year which includes the first day of that school year.

(2) Where the parents of a pupil satisfy the school that their income is wholly or mainly derived from the profits of a business or profession or vocation carried on by either or both of them, then if the parents and the school so agree, any reference in this Part to a financial year shall be construed as a reference to a year ending with such date as appears to the school expedient, having regard to any accounts kept in respect of that business, profession or vocation and the periods covered thereby:

Provided that, where that year ends with a date after 5th April but before the beginning of a school year then, in relation to that school year, "preceding financial year" shall mean the year last so ending before 6th April in the calendar year in which the school year begins and "current financial year" shall mean the year so ending on or after that 6th April and before the beginning of the school year.

References to income

9.—(1) For the purposes of this Part the income of any person for a financial year shall, subject to the provisions of Schedule 1 be taken to be his total income for that year; and in this paragraph and that Schedule, "total income" has the same meaning as in section 32 of the Finance Act 1971(**a**).

(2) For the purposes of this Part "relevant income" as respects parents of an assisted pupil means, in relation to any financial year, their income for that year aggregated with the unearned income for that year, if any, of the pupil himself and of any other of the parents' children who are wholly or mainly dependent on them at the time the relevant income is calculated less, where paragraph (3) or paragraph (4) applies the sum there mentioned; and in this paragraph the reference to unearned income is a reference to income other than such as arises from gainful employment.

(3) Subject to paragraph (4) the relevant income, calculated as aforesaid, shall be reduced by £900 in respect of each person other than the assisted pupil who -

(a) at the time the relevant income is calculated, is wholly or mainly dependent on the parents or on payments made to him or for his benefit by one or both of them, and

(b) is a child or other relative of one or both of the parents:

Provided that, for the purpose of sub-paragraph *(a)*, there shall be disregarded payments, other than sums paid as mentioned in paragraph 3*(e)* of Schedule 1 thereto, which fall to be deducted in ascertaining total income for income tax purposes and, accordingly, are taken into account in calculating relevant income in pursuance of paragraph (2).

(4) Where a child (other than the assisted pupil) who is wholly or mainly dependent on the parents or on payments made to him or for his benefit by one or both of them is the holder of an award of a kind described in paragraph (5) and there has been deducted, in calculating the amount of that award, a sum exceeding £900 in respect of the parental contribution which is assumed to be available as part of the resources of that child, that sum shall be deducted from the relevant income in lieu of the £900 prescribed in respect of that child by paragraph (3).

(5) The awards referred to in paragraph (4) are -

(a)(i) an allowance granted by the Secretary of State for Scotland pursuant to regulations from time to time in force and having effect under sections 73 and 74 of the Education (Scotland) Act 1980(**b**) providing for the payment of allowances to students(**c**);

(**a**) 1971 c.68.
(**b**) 1980 c.44.
(**c**) The regulations in force at the date on which these regulations were made were the Students' Allowances (Scotland) Regulations 1971 (S.I. 1971/124), to which there are no relevant amendments. The administrative arrangements for assessing assumed parental contributions were set out in the "Guide to Students' Allowances 1986-87" (Form AB2) published in April 1986 by the Scottish Education Department and the supplement thereto, copies of which are obtainable from the Scottish Education Department, Awards Branch, Haymarket House, Clifton Terrace, Edinburgh EH12 5DT.

(ii) a bursary granted by an education authority pursuant to regulations from time to time in force and having effect under section 49 of the Education (Scotland) Act 1980 providing for the payment of bursaries to persons undertaking courses of full-time education which are not courses of school education(**a**);

(b) a mandatory award paid by a local education authority in England or Wales pursuant to regulations from time to time in force under section 1 of the Education Act 1962(**b**) providing for the payment of awards to students attending specified courses of further or higher education(**c**);

(c) an award made by -

(i) an education and library board in Northern Ireland pursuant to article 50 of the Education and Libraries (Northern Ireland) Order 1986(**d**) and regulations from time to time in force thereunder(**e**), being an award for the purpose of enabling or encouraging the holder to take advantage of educational facilities specified in or designated under such regulations; or

(ii) the Department of Education for Northern Ireland pursuant to article 40 of the said Order and regulations from time to time in force thereunder being an award in respect of attendance at a course for the training of teachers.

(6) In this regulation, any reference to the parents of an assisted pupil is a reference to the persons who are his parents at the time the relevant income is calculated.

General provisions relating to remission

10.—(1) The parents of an assisted pupil shall not be entitled to any remission of fees for which they are liable in respect of a period before the pupil took up his assisted place or (in lieu of notice or otherwise) after he has left the school or, if he so remains at the school, after the end of the school year in which he attains the age of 20 years.

(2) The parents of an assisted pupil shall be under no obligation to apply for remission of fees as respects a particular school year if they consider themselves not entitled thereto but if, as respects such a year, they do not -

(a) duly apply to the school for remission of fees payable for that year; or

(b) subject to regulation 12(4), duly furnish the school with the information and supporting evidence requisite for determining remission questions;

they shall not be entitled to any remission of fees for that year.

(3) If the Secretary of State is satisfied that, in the case of a particular assisted pupil, his parents have furnished information required for determining

(**a**) The regulations in force at the date on which these regulations were made were the Education Authority Bursaries (Scotland) Regulations 1985 (S.I. 1985/1120).

(**b**) 1962 c.12; section 1 was substituted by Schedule 5 to the Education Act 1980 (c.20) and amended by section 4 of the Education (Grants and Awards) Act 1984 (c.11).

(**c**) The regulations in force at the date on which these regulations were made were the Education (Mandatory Awards) Regulations 1985 (S.I. 1985/1126).

(**d**) S.I. 1986/594 (N.I. 3).

(**e**) The regulations in force at the date on which these regulations were made were the Students' Awards Regulations (Northern Ireland) 1985 (S.R. (N.I.) 1985 No. 301).

remission questions which they know to be false in a material particular, he may direct that those parents shall not be entitled to any remission of fees in the case of that pupil and, if he so directs, in the case of any other of their children who are assisted pupils, as respects a specified school year and, if he so directs, any subsequent school year:

Provided that -

(a) the Secretary of State shall not give a direction hereunder without affording the parents concerned an opportunity to make representations or without considering such representations;

(b) the giving of a direction hereunder shall be without prejudice to its variation or revocation by a subsequent direction.

(4) This regulation shall have effect notwithstanding anything in regulation 11 or any other provision of these regulations.

Determination of remission questions

11.—(1) Subject to paragraph (2), in the case of each assisted pupil remission questions shall be determined by the school, in accordance with this Part, for each school year, whether or not the parents have been entitled to any remission as respects a previous school year.

(2) Where either -

(a) the pupil holds an assisted place at the school for part only of a school year or leaves the school part way through the school year; or

(b) the number of children of the parents who hold assisted places differs for different parts of a school year;

the said questions shall be determined by the school for that part, or separately for those parts, and the extent to which fees in respect of part of a school year are to be remitted shall be that proportion of the amount by which the fees for the whole school year would fall to be remitted which is the proportion which the fees for the part bear to the fees for the whole school year; and for the purposes of this paragraph the duration of the school year and such part shall be calculated with reference to the total number of school days occurring therein respectively.

Calculation of remission

12.—(1) Subject to paragraphs (2), (3) and (4) remission questions shall be determined by reference to relevant income in the preceding financial year.

(2) Where one of the pupil's parents has died after remission questions have been determined but before the end of the current financial year and the school are satisfied that the income of the surviving parent in that year, when aggregated with that of the deceased parent, is likely to be less than their aggregated income in the preceding financial year, the remission questions shall be redetermined by reference to the current financial year, and in such case, paragraph (1) shall have effect as if the reference therein to the preceding financial year were a reference to the current financial year and the reference to the pupil's parents in paragraph (2) of regulation 9 included a reference to the deceased parent (notwithstanding the provision of paragraph (6) of that regulation).

(3) This paragraph shall apply in a case not falling within paragraph (2) if -

(a) the participating school concerned are satisfied that the relevant income in the current financial year is, as a result of some event beyond the control of the pupil's parents, likely to be not more than 85% of the relevant income in the preceding financial year, or

(b) the school, though not satisfied as aforesaid, are satisfied that the relevant income in the current financial year is likely to be so much less than the relevant income in the preceding financial year that financial hardship would result from remission questions being determined by reference to that year, and the Secretary of State approves the application of this sub-paragraph;

and, in a case in which this paragraph applies remission questions shall be determined in relation to the school year in question and, unless and until the Secretary of State otherwise directs, any subsequent school year by reference to the current financial year and, in such case, paragraph (1) shall have effect as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where it is not reasonably practicable for the parents to furnish before the beginning of the school year, the requisite information as to relevant income for the appropriate financial year then, in relation to that school year, remission questions may be determined provisionally, by reference to relevant income for earlier financial years as the school think fit but -

(a) no such provisional determination shall be more favourable to the parents than one arrived at by reference to an estimate furnished by the parents of relevant income for the appropriate financial year;

(b) a provisional determination shall cease to have effect when the parents have furnished the requisite information or if the school are satisfied that it has become reasonably practicable for them to do so but they have failed to furnish it, and

(c) within three months of the determination of the remission questions any over-remission or under-remission of fees shall be adjusted by payments between the parents and the school.

Scale of remission

13.—(1) In this regulation -

(a) "assisted pupil" means any child who holds or is about to hold an assisted place and for the purposes of paragraphs (4), (5) and (6) of this regulation an assisted pupil includes a pupil who is aided by virtue of the St Mary's Music School (Aided Places) Regulations 1986(**a**), or the Education (Grants) (Music and Ballet Schools) Regulations 1985(**b**);

(b) a reference to a relevant assisted place, in relation to an assisted pupil is a reference to the assisted place held by him or, as the case may be, about to be held by him after admission thereto;

(**a**) S.I. 1986/1103.
(**b**) S.I. 1985/684, amended by S.I. 1986/989.

and for the purposes of this regulation Column 1 of Schedule 2 specifies bands of relevant income and Column 2 of that Schedule specifies percentages of relevant income to be used in calculating parental contributions.

(2) Where the relevant income of parents of an assisted pupil in a preceding financial year does not exceed £6,806 fees for the school year to which that preceding financial year relates as respects any relevant assisted place shall be remitted in full by the participating school or schools concerned.

(3)*(a)* Where -

(i) parents receive assistance in respect of only one child; and

(ii) the relevant income of such parents in a preceding financial year falls within a band, or bands, of income specified in column 1 of Schedule 2, the parents shall contribute from that income an amount (rounded down to the nearest multiple of £3) equal to the aggregate of the percentages (specified in column 2 of that Schedule) of those parts of the relevant income referred to in column (1) of that Schedule:

(b)(i) subject to paragraph (4), fees for the school year in relation to which that preceding financial year relates as respects any relevant assisted place, shall be remitted by the participating school or schools concerned to the extent of the amount by which the aggregate fees of such school or schools exceed the sum of parental contribution computed in accordance with sub-paragraph (ii) above; and

(ii) that sum of parental contribution shall be recoverable by such school or schools from those parents in accordance with paragraphs (5) and (6) below.

(4) Where the number of assisted pupils in the same family is, for the time being, two or more the sum of parental contribution mentioned in paragraph (3) shall be increased in accordance with the following scale:-

(a) where the number of such pupils is 2, by the factor of 1.5;

(b) where the number of such pupils is 3, by the factor of 1.8; and

(c) where the number of such pupils is 4, or more, by the factor of 2.

(5) Where assisted pupils from the same family attend or propose to attend two or more different participating schools, each participating school concerned shall be entitled to recover such amount of the parental contribution, relating to those pupils, as bears to that contribution the same proportion as the number of those pupils attending or proposing to attend that school bears to the total number of assisted pupils for the time being in the family.

(6) Where a pupil does not hold an assisted place at a participating school for the full duration of the school year that part of the parental contribution which is attributable in relation to that pupil shall be reduced by the same proportion as the part of the school year during which the pupil held the assisted place bears to the whole school year; and for the purposes of this paragraph the duration of the school year and such part shall be calculated with reference to the total number of school days occurring therein respectively.

PART IV

MAKING OF GRANTS AND REMISSION OF CHARGES

General

14.—(1) The provisions of this Part shall apply in relation to the making of grants and remission of charges in respect of an assisted pupil.

(2) Subject to the provisions of this Part, a participating school shall make grants in respect of school travel expenditure (hereinafter in this Part referred to as "school travel grants") and clothing expenditure (hereinafter in this Part referred to as "clothing grants") and shall remit charges in respect of meals provided and participation in field study courses all in accordance with the provisions of this Part.

(3) Subject to the provisions of regulations 15(4), 16(3) and 17(3) no grant shall be made in pursuance of these regulations to a parent of an assisted pupil in respect of school travel or clothing expenditure incurred or relating to any period before the date on which he took up an assisted place or after the date on which he ceased to hold an assisted place; and no such charges as are mentioned in paragraph (2) in respect of any such period shall be remitted in pursuance of these regulations.

(4) Where a pupil attended a school before he took up an assisted place thereat then, in pursuance of these regulations -

(a) no grants shall be paid to his parents in respect of expenditure incurred before the date he took up his assisted place;

(b) no charges shall be remitted in respect of a period before that date.

(5) The parents of an assisted pupil shall not be entitled to any grants from a participating school in respect of such expenditure incurred relating to a period after he has left the participating school or, if he remains at the school, after the end of the school year in which he attains the age of 20 years nor shall they be entitled to any remission of charges for which they are liable (in lieu of notice or otherwise) in respect of such a period.

(6) In this regulation, "school travel expenditure" includes school travel expenditure as defined in regulations 15(2) and 16(2) and "clothing expenditure" has the meaning assigned thereto by regulation 17(1).

School travel grants for day pupils and amount thereof

15.—(1) This regulation shall apply in relation to school travel grants in the case of an assisted pupil who is a day pupil in attendance at a participating school.

(2) In this regulation "school travel expenditure" means such amount as may be determined, in accordance with the provisions of this regulation, to be the aggregate amount of travelling expenses incurred by the parents of an assisted pupil who is a day pupil in attendance at a participating school in respect of his travel to and from the school by any of the following means:-

(a) by public transport services including any train, bus, boat, hovercraft or air services within such services;

(b) by transport provided in pursuance of arrangements made by that school and for the time being approved by the Secretary of State;

(c) any combination thereof;

where the walking distance between his home and that school exceeds 3 miles each way measured by the nearest available route.

(3) A school travel grant shall also be payable in respect of school travel expenditure reasonably incurred in relation to journeys actually made by the pupil in the school year within the British Islands for the purpose of attending a university, college or other establishment of further education at the invitation of the establishment with a view to being admitted to that establishment for the purpose of further education; and said grant shall be payable in respect of not more than three such journeys from the school or from the pupil's home to such an establishment and three journeys from the establishment to the school or to the pupil's home in any school year.

(4) A participating school, in accordance with this regulation -

(a) shall, in respect of any school year, make a school travel grant in respect of any assisted pupil in whose case this regulation applies in attendance at their school to the parents of that pupil in respect of school travel expenditure incurred by them in respect of him for that year; and

(b) may, in the course of, or immediately before the commencement of any school year, make payments in advance on account of any school travel grant in respect of school travel expenditure being grant which it appears to them will fall to be made in respect of that year to the parents of such an assisted pupil;

and, where payments are made in accordance with sub-paragraph *(b)* any overpayment or underpayment of grant for the year in question shall, within three months of the final determination of the amount (if any) of the school travel grant, be adjusted by payments between the parents and the participating school.

(5) For the purposes of determining the aggregate amount of travelling expenses mentioned in paragraph (2), the following provisions shall apply:-

(a) where an assisted pupil's travelling expenses are incurred in respect of journeys in excess of 25 miles each way between home and school by any of the means of transport mentioned in paragraph (2), account shall be taken of only so much of the expenses as bears the same proportion to the full amount thereof as 25 miles bears to the length in miles of the journey in question measured with reference to the actual distance by the nearest available route between the pupil's home and the school;

(b) where such expenses are in respect of journeys by public transport and they are in excess of the expenses which would have been incurred if advantage had been taken of available arrangements for season tickets or reduced or concessionary fares, the excess shall be disregarded.

(6) The amount (if any) of school travel grant to be made in relation to an assisted pupil in respect of any school year in accordance with this regulation shall be determined in accordance with this paragraph by reference to the school

travel expenditure incurred in respect of him for that school year and to the relevant income of his parents in the preceding financial year -

(a) in any case where that relevant income does not exceed £6,819 per annum the school travel grant shall be such sum as is equal to the amount of the school travel expenditure so incurred;

(b) in any other case, the school travel grant shall be of such sum, as is equal to the amount (if any) by which the school travel expenditure so incurred exceeds one twelfth rounded down to the nearest multiple of £3 of the sum by which that relevant income exceeds £6,638.

School travel grants for boarding pupils and amounts thereof

16.—(1) This regulation shall apply in relation to school travel grants in the case of an assisted pupil who is a boarder in attendance at a participating school.

(2) In this regulation "school travel expenditure" means such amount as may be determined in accordance with the provisions of this regulation, to be the aggregate amount of travelling expenses reasonably incurred by the parents of an assisted pupil in respect of whom this regulation applies in respect of his travel to and from the school by any of the following means:-

(a) by public transport services including any train, bus, boat, hovercraft or air services within such services;

(b) by transport provided in pursuance of arrangements made by that school and for the time being approved by the Secretary of State;

(c) any combination thereof.

(3) A participating school, in accordance with this regulation, shall make in respect of any school year, a school travel grant to the parents of the assisted pupil in respect of his school travel expenditure:

Provided that -

(a) in the case of a pupil who is a boarder (other than a weekly boarder) grant shall not be payable in respect of more than 12 single journeys, either to or from school in any school year;

(b) in the case of a pupil who is a weekly boarder no grant shall be payable unless the pupil's walking distance between home and school exceeds 3 miles, but in respect of journeys in excess of 50 miles in each direction by any such transport as is mentioned in paragraph (2) account shall be taken of only so much of those expenses as bears to the full amount thereof the same proportion as 50 miles bears to the length in miles of the journey in each direction measured with reference to the actual distance by the nearest available route between the pupil's home and the school;

(c) in the case of any pupil -

(i) where the pupil's expenses are in respect of journeys by public transport and they are in excess of what they would have been if advantage had been taken of available arrangements for reduced or concessionary fares, the excess shall be disregarded;

(ii) where the journey is to or from a place outside the British Islands, so much of the expenses as are in respect of a journey between a

port, hoverport or airport within the British Islands and that place shall be disregarded;

(iii) where the pupil's expenses are in respect of journeys by air and they are in excess of what they would have been if advantage had been taken of available train, boat or hovercraft services and arrangements for reduced or concessionary fares, the excess shall be disregarded.

(4)(i) A school travel grant shall also be payable in respect of school travel expenditure reasonably incurred in relation to journeys actually made by the pupil in the school year within the British Islands for the purpose of attending a university, college or other establishment of further education at the invitation of the establishment with a view to being admitted to that establishment for the purpose of further education; and said grant shall be payable in respect of not more than three such journeys from the school or from the pupil's home to such an establishment and three journeys from the establishment to the school or to the pupil's home in any school year; and

(ii) the amount of any grant awarded in relation to an assisted pupil in respect of any school year under sub-paragraph (i) shall be determined in accordance with this sub-paragraph by reference to the actual cost of such journeys subject to the provisions of paragraph (3)*(c)* above and to the relevant income of his parents in the preceding financial year so that -

(a) in any case where that relevant income does not exceed £6,819 per annum the school travel grant shall be such sum as is equal to the amount of the school travel expenditure so incurred;

(b) in any other case, the school travel grant shall be of such sum, as is equal to the amount (if any) by which the school travel expenditure so incurred exceeds one twelfth rounded down to the nearest multiple of £3 of the sum by which that relevant income exceeds £6,638;

(iii) for the purposes of this paragraph, sub-paragraphs *(a)* and *(b)* of paragraph (3) shall have no effect.

(5)*(a)* A participating school may, in the course of or immediately before a school year, make payments, on account of any school travel grant in respect of school travel expenditure being grant which it appears to them will fall to be made in respect of that year to the parents of that pupil;

(b) where any such payments on account are made, any overpayment or underpayment of grant for the year in question shall, within 3 months of the final determination of the amount (if any) of the school travel grant, be adjusted by payments between the parents and the school.

Clothing grants

17.—(1) In this regulation "clothing expenditure" means expenditure on items of uniform and other clothing (including sports clothing) required to be worn at school by an assisted pupil which the school are satisfied -

(a) has been incurred by the parents of that pupil, or

(b) is about to be incurred by them but which they cannot, without financial hardship, incur in advance of the making of grant under this regulation.

(2) In an assisted pupil's first assisted year, clothing grant shall be made in the case of such a pupil as respects whom the relevant income does not exceed £7,563 and in such case the grant shall be of an amount equal to so much of the clothing expenditure as does not exceed -

(a) £115, where the relevant income does not exceed £6,638;

(b) £87, where that income exceeds £6,638 but does not exceed £6,949;

(c) £58, where that income exceeds £6,949 but does not exceed £7,248;

(d) £29, where that income exceeds £7,248 but does not exceed £7,563.

(3) In any subsequent school year in which clothing grant is made it shall be made in the case of an assisted pupil as respects whom the relevant income does not exceed £7,248 and in such case the grant shall be of an amount equal to so much of the clothing expenditure (disregarding expenditure in respect of which a previous grant has been paid) as does not exceed -

(a) £43, where the relevant income does not exceed £6,806;

(b) £21, where that income exceeds £6,806 but does not exceed £7,248.

Remission of charges for meals

18.—(1) Charges which would otherwise be made by a participating school in respect of meals provided in the middle of any school day for an assisted pupil shall be remitted in accordance with this regulation.

(2) In the case of a pupil in respect of whom the relevant income does not exceed £5,773, the school shall remit (save as provided in paragraph (3)) one half of any such charges.

(3) Where the parents of an assisted pupil satisfy the school that at any time during a school year, or the month preceding the beginning of a school year, they are in receipt of supplementary benefit or family income supplement, the school shall make such provision in the middle of the day for that pupil as appears to the school to be requisite and shall remit the whole of any charges in respect of such provision -

(a) during the whole of that school year, where they are satisfied as aforesaid at or before the beginning of that year; or

(b) for the remainder of the school year, where they are so satisfied in the course thereof;

notwithstanding that the parents may cease to be in receipt of supplementary benefit or family income supplement between the participating school being so satisfied and the end of the school year in question.

Questions arising under regulations 14 to 18

19.—(1) The questions whether or not the parents of an assisted pupil are entitled in or for any school year to -

(a) school travel grant under regulations 15 and 16;

(b) school clothing grant under regulation 17;

(c) remission of charges for meals under regulation 18;

and the amount or extent thereof shall be determined as provided in regulation 11 in like manner as questions relating to fees remission in that year are determined under that last mentioned regulation:

Provided that in any case where the circumstances are such as are mentioned in either regulation 11(2)*(a)* or *(b)* and the amount or extent of a school clothing grant requires to be determined, the foregoing provision shall not apply.

(2) Regulations 8, 9, 10(2), (3) and (4), 11(1) and 12 and Schedule 1 shall apply for the purposes of regulations 14 to 18 as if references therein -

(a) to the remission of fees were a reference to the grants and remission of charges for meals mentioned in paragraph (1);

(b) to remission questions were a reference to the questions so mentioned.

Remission of charges for field study courses

20.—(1) In this regulation a "field study course" means a course of field study (provided by a participating school or otherwise) which forms part of a course of school education at the school for any examination conducted by the Scottish Examination Board or other examinations comparable thereto, being examinations in -

(a) biology;

(b) botany;

(c) geography;

(d) geology;

(e) zoology; or

(f) any other subject approved for the purposes hereof by the Secretary of State;

and a reference to a relevant public examination shall be construed accordingly.

(2) Charges which a participating school would otherwise make in respect of the participation in a field study course of an assisted pupil while holding an assisted place at that school shall be remitted in accordance with this regulation.

(3) The remission of charges mentioned in paragraph (2) shall be made if, and only if, the pupil in respect of whom remission is to be made -

(a) is a candidate or prospective candidate for a relevant public examination; and

(b) his parents are entitled in accordance with Part III of these regulations to remission of fees in whole or in part for the school year in which the course is held.

Reimbursement of amounts of grants made or charges remitted by a participating school

21.—(1) Subject to paragraph (2), the Secretary of State shall in accordance with these regulations reimburse to a participating school the aggregate amounts granted or remitted by them in respect of travel grants, clothing grants, charges for meals and charges for field study courses as respects assisted pupils holding assisted places in their school.

(2) The amounts so reimbursed to any participating school shall not exceed in relation to any school year the maximum annual amount in respect of that year allocated for the purposes of section 75B of the Act and stated in accordance with section 75A(3) of the Act in the determination of that school.

PART V

REIMBURSEMENT CLAIMS AND CONDITIONS OF PAYMENT

22.—(1) Claims for reimbursement of fees remitted and grants made and charges remitted in pursuance of these regulations (hereinafter referred to as "reimbursement claims") may be submitted to the Secretary of State by a participating school in respect of such periods, not being less than a term, as appear to them appropriate and, with his consent, claims may be submitted on the basis of an estimate of fees or charges so remitted or grants made ("provisional claims"); but, where a provisional claim is submitted, the school shall, as soon as is reasonably practicable, submit a reimbursement claim in respect of the period in question which is not based on such an estimate and that claim shall supersede the provisional claim.

(2) As soon as is reasonably practicable after he is satisfied as respects a reimbursement claim, the Secretary of State shall reimburse the school in pursuance of the claim in accordance with these regulations without prejudice, however, where he considers it expedient to do so, to his making earlier payments on account in pursuance of the reimbursement claim or in pursuance of a provisional claim in respect of the same period.

(3) Any overpayment or underpayment which appears to the Secretary of State to have occurred shall be adjusted as soon as is reasonably practicable by payments between the Secretary of State and the school concerned and, in particular, but without prejudice to that generality, where the amount of any reimbursement claim under these regulations is less than the amount paid to the school under a provisional claim, the Secretary of State shall be entitled to recover the amount overpaid from that school and, without prejudice to any other method of recovery available to him, he may deduct that amount from the amount of any other reimbursement claim falling to be made to that school in accordance with these regulations.

Conditions of payment

23.—(1) Any reimbursement under these regulations shall be subject to the condition that the Secretary of State shall be satisfied that the participating school, to which such reimbursement is made, shall comply or shall have complied with the requirements specified in these regulations.

(2) If the Secretary of State is satisfied that a participating school has failed to observe any of the conditions or requirements specified in these regulations in relation to any school year he may -

(a) refuse to make payment in whole or in part of any claim falling to be made to that school in respect of that year in accordance with the regulations; or

(b) withhold payment of such claim or such part thereof as he considers appropriate for such period or periods as he considers appropriate;

and where a reimbursement claim has been paid to such a school in advance of the Secretary of State being so satisfied the Secretary of State shall be entitled to recover from the school such sum as he considers appropriate being a sum equal to the whole or such part of the payment made in respect of such claim as he thinks expedient, and without prejudice to any other method of recovery available to him he may deduct such sum from the amount of any other reimbursement claim falling to be made to that school in accordance with these regulations.

PART VI

REQUIREMENTS AS TO SUPPLY OF INFORMATION, FEES ETC.

Publication of information

24. Each participating school shall publish annually in a national newspaper circulating at least weekly, information on the following matters:-

(a) that the school is a school participating in the assisted places scheme operated under section 75A of the Education (Scotland) Act 1980(**a**);

(b) one or more addresses and telephone numbers at which information about the scheme may be obtained;

(c) that on written application being made by parents of children eligible for an assisted place, information about the school will be supplied to them;

(d) that information about the school is available for inspection or reference purposes at the times and places stated.

Supply of information

25. Each participating school shall supply in writing to the parent of a pupil eligible for an assisted place in their school, on a written request being made therefor, information of the kinds specified in Schedule 3.

Updating of information

26. Each participating school shall review yearly and revise as necessary their provision of information of the kinds specified in Schedule 3 and such provision shall at all times state the school year to which the information therein referred to relates or refers and shall contain a warning that although the information given is believed to be correct in relation to that year at a date specified in the provision, it should not be assumed that there will be no change in or affecting the matters covered by the provision -

(a) before the commencement or during the course of the school year in question; or

(b) in relation to subsequent school years.

Information available to the Secretary of State

27. Each participating school shall furnish the Secretary of State with a copy of the information specified in Schedule 3 in whatever form the same is supplied in accordance with regulation 25.

(**a**) 1980 c.44.

Fees, etc. payable

28.—(1) In the case of an assisted pupil -

(a) the fees charged by a participating school shall not include a sum paid into a bursary or similar fund; and

(b) the school shall not make it a condition of his attendance that any payment otherwise than in respect of fees be made to the school or into a fund specified by the school.

(2) This regulation shall have effect subject to any provisions relating to fees in a determination.

Increase in fees

29. A school shall not increase the fees for assisted pupils unless they have given the Secretary of State at least one month's written notice of their intention so to do and, if within fourteen days of receiving such notice the Secretary of State so directs, shall refrain from making, postponing or restricting the amount of the increase as he may then or subsequently require.

Information to Secretary of State

30. Each participating school shall furnish the Secretary of State with -

(a) information required to be supplied under regulation 25 revised as necessary in accordance with regulation 26 not later than the end of the school year in which revision is made;

(b) such periodic returns and other information as he may require relating to the school or pupils thereat including in particular information relevant to an intended increase in fees for pupils at the school;

(c) such information as he may require relating to any reimbursement claim or provisional claim submitted in accordance with these regulations.

School accounts

31. A participating school shall keep proper accounts and shall, at the request of the Secretary of State, furnish him with copies of accounts for such period or periods as he may require duly audited by an independent auditor together with copies of the auditor's certificate relating thereto.

Revocation

32. The Education (Assisted Places) (Scotland) Regulations 1982(**a**), the Education (Assisted Places) (Scotland) Amendment Regulations 1983(**b**), the Education (Assisted Places) (Scotland) Amendment Regulations 1984(**c**) and the Education (Assisted Places) (Scotland) Amendment Regulations 1985(**d**) are hereby revoked.

(**a**) S.I. 1982/949.
(**b**) S.I. 1983/1030.
(**c**) S.I. 1984/840.
(**d**) S.I. 1985/1076.

J. Allan Stewart,
Parliamentary Under Secretary of State,
Scottish Office.

New St. Andrew's House,
Edinburgh.
30th June 1986.

SCHEDULE 1 Regulation 9

COMPUTATION OF INCOME

1.—(1) This Schedule shall have effect for the purposes of determining a person's income for the purposes of these regulations by reference to his total income.

(2) In this Schedule any reference to the Act of 1970 is a reference to the Income and Corporation Taxes Act 1970(**a**).

2. Where any income of a person is not part of his total income by reason only that -

(a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or

(b) the income does not arise in the United Kingdom, or

(c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any enactment,

his income for the purposes of these regulations shall be computed as though the income first mentioned in this paragraph were part of his total income.

3. In so far as in ascertaining a person's total income any deductions fall to be made -

(a) by way of personal reliefs provided for in Chapter II of Part I of the Act of 1970, otherwise than in section 18 thereof (reliefs for blind persons);

(b) in pursuance of Part IX of the Act of 1970 or of Chapter II of Part II of the Finance Act 1970(**b**), in respect of superannuation or other payments made by a person, or in respect of deductions made from his salary, for the purpose of securing the payment to or in respect of him of pensions, annuities or other future benefits;

(c) in respect of payments by way of relevant loan interest within the meaning of paragraph 2 of Schedule 7 to the Finance Act 1982(**c**);

(d) in pursuance of section 75 of the Finance Act 1972(**d**), in respect of interest payments eligible for relief under that section by virtue of Part I of Schedule 9 to that Act and paragraphs 4(1)*(a)* and 4A of Schedule 1 to the Finance Act 1974(**e**) (loan for purchase or improvement of land) or by virtue of paragraph 24 of the said Schedule 1 (loan to purchase life annuity);

(e) in respect of any sums paid under a deed of covenant otherwise than to a child of the person concerned who is wholly or mainly dependent upon him;

(f) in pursuance of section 31 of the Finance Act 1977(**f**), in respect of earnings from work done abroad;

(g) in pursuance of section 42 of the Finance Act 1985(**g**) (relief for Class 4 contributions);

(h) in pursuance of section 37 of the Finance Act 1980(**h**) (relief for losses on unquoted shares in trading companies); or

(i) in pursuance of Part I of Schedule 5 to the Finance Act 1983(**i**) (relief for investment in new corporate trades);

(**a**) 1970 c.10; the amending enactments (which relate to qualification for, and the amount of, relief) are not expressly relevant to these regulations.
(**b**) 1970 c.24.
(**c**) 1982 c.39.
(**d**) 1972 c.41; section 75 was amended by section 19 of the Finance Act 1974 (c.30) and section 26 of the Finance Act 1982 (c.39).
(**e**) 1974 c.30; paragraph 4A of Schedule 1 was inserted by section 36 of the Finance Act 1977 (c.36).
(**f**) 1977 c.36.
(**g**) 1985 c.54.
(**h**) 1980 c.48.
(**i**) 1983 c.28; Part I of Schedule 5 was amended by Schedule 1 to the Finance (No. 2) Act 1983 (c.49).

his income for the purposes of these regulations shall be computed as though those deductions did not fall to be made.

4. There shall be left out of account, in computing a person's total income for the purposes of these regulations, any allowance paid to him by an adoption agency pursuant to a scheme approved by the Secretary of State under section 50(4) of the Adoption Act 1958(**a**) and any contribution paid to him by a local authority pursuant to section 50 of the Children Act 1975(**b**).

(**a**) 1958 c.5 (7 & 8 Eliz. 2); section 50(4) was inserted by section 32 of the Children Act 1975 (c.72).
(**b**) 1975 c.72.

SCHEDULE 2 Regulation 13

(1) *Part of relevant income to which the specified percentage applies*	(2) *Parental contribution percentage*
That part (if any) which exceeds £6,640 but does not exceed £7,220	9%
That part (if any) which exceeds £7,220 but does not exceed £7,810	12%
That part (if any) which exceeds £7,810 but does not exceed £8,980	15%
That part (if any) which exceeds £8,980 but does not exceed £10,780	21%
That part (if any) which exceeds £10,780 but does not exceed £13,130	24%
That part (if any) which exceeds £13,130	33%

Regulation 25 SCHEDULE 3

INFORMATION TO BE SUPPLIED BY A PARTICIPATING SCHOOL

1. Arrangements of the school for the admission of pupils.

2. Any entrance requirements to be satisfied and any special categories of pupils considered in this respect.

3. The name, address and telephone number of the school, the present roll, the stages covered, denominational affiliation, if any, and if the school takes pupils of one sex only, the sex admitted.

4. The headteacher's name and the number of other teaching staff.

5. Arrangements for parents offered or applying for a place in the school to visit the school.

6. A statement of the school's educational aims.

7. The range and level of curriculum provided for pupils of different ages; provision for religious education and arrangements for parents who wish to withdraw their child from the religious education provided; policy or practice on homework; subject options and choices available and arrangements for parents to be consulted about such choices and provision for curricular, personal and careers guidance.

8. Arrangements for assessing pupils' progress and reporting this to parents.

9. Any arrangements made at or in connection with the school for pupils with special educational needs.

10. Extra-curricular activities.

11. Facilities available for sports and outdoor activities.

12. Policy or practice on clothing or uniform; approximate cost of each item of required uniform; and any assistance given with costs.

13. Policy or practice on discipline, including corporal punishment; school rules; action to be taken by parents and schools respectively in the event of pupil's absence.

14. Arrangements for health care.

15. Organisation of school day; times of arrival and dismissal; school term dates and holidays for the forthcoming session.

16. Policy or practice with regard to mixed ability classes, streaming or setting.

17. Policy or practice with regard to entering pupils for public examinations and the following information for the most recent school year for which the information was available at the date of supplying the information:-

i. the number of pupils who attained each band of awards in each such public examination, shown separately for each subject and for each stage of secondary education;

ii. the number of pupils in each of the school stages concerned, shown separately for each stage, as recorded in the first term of the school year to which the examination results relate.

18. Any financial assistance to pupils available under schemes administered by the school.

19. Arrangements for meals/snacks taken at school and any assistance given with costs; facilities for the consumption of packed lunches.

20. Any arrangements for the transport of pupils to and from school and any assistance given with costs.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations consolidate, with amendments, the Education (Assisted Places) (Scotland) Regulations 1982 which, with regulations amending them, are revoked by regulation 32. The regulations come into operation on 1st August 1986.

The regulations relate to the scheme for assisted places at independent schools which was required to be established under section 75A of The Education (Scotland) Act 1980. The regulations which they supersede have been reviewed by the Secretary of State, in consultation with bodies representing participating schools in accordance with section 75A(11) of the 1980 Act. Changes of substance are described below.

Part I makes general provision for citation and commencement and interpretation. The definition of parents in regulation 2 is extended to cover the cases where an unmarried parent having actual custody of a child marries a person other than the child's natural parent.

Part II of the regulations deals with eligibility for assisted places. The condition as to age and education of a pupil admitted to an assisted place has been amended to clarify the minimum age for an assisted place (regulation 5).

Part III deals with the remission of fees. The extent of remission is determined by reference to relevant income (defined in regulation 9). The level of relevant income at or below which fees are to be wholly remitted is increased from £6,376 to £6,806 (regulation 13) with corresponding increases in the income scale to determine the parental contribution to fees (Schedule 2).

Part IV deals with the incidental expenses of pupils holding assisted places and provides for making grants towards travel grants (regulations 15 and 16) and clothing grants (regulation 17) with the remission of charges for meals (regulation 18) and certain field study courses (regulation 20):

School travel grant is remitted in full where relevant income does not exceed £6,819 (formerly £6,389) and scaled down where relevant income exceeds that figure.

The limit of relevant income for clothing grant in the first year is raised from £6,075 to £7,563, with corresponding increases in the maximum amount of grant payable where relevant income is below that figure, varying from £115 to £29 (formerly £108 and £27); and in subsequent years from £6,806, to £7,248 with maximum grants of £43 and £21 (formerly £40 and £20).

Charges for school meals are remitted in full where the parents are in receipt of supplementary benefit or family income supplement, and as to one half where relevant income does not exceed £5,773 (formerly £5,400).

Charges for field courses are remitted in full where the parents are entitled to remission of fees under regulation 13.

Parts V and VI (Reimbursement Claims and Conditions of Payment and Requirements as to the Supply of Information) are unchanged except that in regulation 29 the period of time during which the Secretary of State may issue directions postponing or restricting an increase in fees for assisted pupils,

following the giving of a notice of increase by the school, is increased from seven to fourteen days.

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