STATUTORY INSTRUMENTS

1989 No. 1458

EDUCATION, ENGLAND AND WALES

The Education (Mandatory Awards) Regulations 1989

Made - - - -	*8th August 1989*
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The Secretary of State for Education and Science, in exercise of the powers conferred by sections 1 and 4(2) of, and paragraphs 3 and 4 of Schedule 1 to the Education Act 1962**(a)** and section 3(1) and (3) of the Education Act 1973**(b)**, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Mandatory Awards) Regulations 1989 and shall come into force on 1st September 1989.

Definitions

2. In these Regulations, unless the context otherwise requires:—

"academic authority" means, in relation to an establishment, the governing body, or other body having the functions of a governing body and includes a person acting with the authority of that body;

"authority" means a local education authority;

"award" includes an award bestowed under previous Awards Regulations;

"British Islands" means the United Kingdom, the Channel Islands and the Isle of Man;

"Certificate in Education" includes a Teacher's Certificate;

(a) 1962 c.12: the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c.20); section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c.11), section 4.

(b) 1973 c.16.

"course", "designated course", "sandwich course" and other qualified references to courses have the meanings respectively assigned to them by Regulation 4;

"dependent" means wholly or mainly financially dependent;

"employment" means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and "employed" shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding of any office and to any occupation for gain;

"establishment" means a university or establishment of higher education in the United Kingdom, and "establishment of **further** education" excludes a university but includes an establishment which also provides **higher** education;

"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;

"highest-cost country" means **Denmark**, Finland, Japan, Norway, **Sweden** and **Switzerland**;

"higher-cost country" means Austria, **Belgium**, the Republic of Ireland, France, the Federal Republic of Germany, the Netherlands and the **United States of America**;

"high-cost country" means **Canada**, Hong Kong, Indonesia, Italy, Luxembourg and the USSR;

"independent student" has the meaning assigned to it by Regulation 3;

"maintenance grant" has the meaning assigned to it by Regulation 17;

"periods of experience", "prescribed proportion" and "sandwich year", in relation to a sandwich course, have the meanings respectively assigned to them by paragraph 1 of Schedule 5;

"previous Awards Regulations" means Regulations made under section 1 of the Education Act 1962 and revoked either by regulation 6 or before the coming into force of these Regulations;

"refugee" means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951**(a)** as extended by the Protocol thereto which entered into force on 4th October 1967**(b)** or a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty's government though not so recognised, and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

"statutory award" means any award bestowed or grant paid by virtue of the Education Act 1962 or any comparable award or grant which is paid out of moneys provided by Parliament;

"student" means a person upon whom an award has been bestowed under these Regulations or previous Awards Regulations;

"university" means a university in the United Kingdom and includes a university college and a constituent college, school or hall of a university;

"year", in relation to a course, means the period of twelve months beginning on 1st January, 1st April or 1st September according as the academic year of the course in question begins in the spring, the summer or the autumn respectively; and references to the first year of a designated course shall be construed accordingly.

References to independent students

3.—(1) In these Regulations "independent student" means a student who–

(a) has attained the age of 25 years before the beginning of the year for which payments in pursuance of his award fall to be made; or

(b) has supported himself out of his earnings for periods before the first year of his course aggregating not less than three years; or

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(a) Cmnd. 9171.

(b) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Further and Higher Education Branch 3, Room 9/1, the Department of Education and Science, Elizabeth House, York Road, London SE1 7PH).

(c) has been married for at least two years before the beginning of the year for which payments in pursuance of his award fall to be made whether or not the marriage is still subsisting; or

(d) has no parent living.

(2) For the purposes of paragraph (1)(b) a student shall be treated as having supported himself out of his earnings for any period or periods for which–

(a) the student was in receipt of training in pursuance of the Training Opportunities Programme, the Youth Opportunities Programme, or the Youth Training Scheme of the Manpower Services Commission or the Training Commission as the case may be; or

(b) the student was in receipt of unemployment benefit under section 14(1)(a) of the Social Security Act 1975(a); or

(c) before 24th November 1980 (when Schedule 2 to the Social Security Act 1980(b) came into force), the student was registered for employment; or

(d) on and after that date but before 18th October 1982, the student was registered and available for employment; or

(e) on and after 18th October 1982, the student was available for employment and, if under the age of 18 years, registered for employment; or

(f) the student held a State Studentship or comparable award; or

(g) the student received sickness benefit, invalidity pension, maternity allowance or severe disablement allowance under section 14(1)(b), 15(1)(b), 22(1) or 36(1) of the Social Security Act 1975 as originally enacted or as amended(c) or statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(d) or statutory maternity pay under Part V of the Social Security Act 1986(e); or

(h) the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was dependent upon him.

(3) In this regulation–

(a) any reference to a person registered or available for employment is a reference to his being so registered or available for the purposes of section 5 of the Supplementary Benefits Act 1976(f);

(b) any reference to an enactment contained in the Supplementary Benefits Act 1976 or the Social Security Act 1975 is a reference to that enactment as from time to time in force and includes, in relation to a period before the coming into force of the enactment in question, a reference to the corresponding enactment then in force;

(c) "parent" shall have the same meaning as in Part 2 of Schedule 3 to these Regulations.

References to courses

4.—(1) In these Regulations any reference to a designated course shall be construed as a reference to a course designated by or under regulation 10 and, in relation to any person, any reference to such a course (otherwise unqualified) shall, as the context requires, be construed as a reference to a designated course which the person in question attends or has applied to attend; and, in relation to any designated course except one designated under regulation 10(1)(d)(ii) or (iii), any reference to a course shall be construed as a reference to either a course of full-time study or a sandwich course.

(2) In these Regulations any reference to a first degree course, a Dip HE course, a

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(a) 1975 c.14.
(b) 1980 c.30.
(c) Section 36 was substituted by section 11 of the Health and Social Security Act 1984 (c.48) and a new section 22 was substituted by paragraph 13 of Part II of Schedule 4 to the Social Security Act 1986 (c.50).
(d) 1982 c.24.
(e) 1986 c.50.
(f) 1976 c.71; a new section 5 was substituted by section 38(1) of the Social Security and Housing Benefits Act 1982 (c.24); section 5 was repealed with effect from 11th April 1988 by Schedule 11 to the Social Security Act 1986 (c.50).

course of initial training for teachers, or a course comparable to a first degree course shall be construed in accordance with regulation 10.

(3) In these Regulations any reference to a sandwich course shall be construed as a reference to such a course within the meaning of paragraph 1 of Schedule 5.

(4)(a) **In the case of a student who began his course before 1st April 1989 any reference to a course of higher education** is a reference to a course listed in paragraph 2 of Schedule 2 to the Education (Schools and Further Education) Regulations 1981**(a)** as in force **on 31st March 1989**;

(b) In the case of a student who begins his course on or after 1st April 1989, any reference in these Regulations to a course of **higher** education shall be **construed in accordance with section 120(1) of the Education Reform Act 1988(b).**

General construction and interpretation

5.—(1) In these Regulations, references to payments made to a student include references to payments made to the academic authority in respect of the student by virtue of regulation **24**(2).

(2) In calculating a person's income for any year any reduction for income tax is to be made by calculating the tax payable on the income received in that year as if the year were a year of assessment within the meaning of the Income Tax Acts (the necessary apportionment being made in any case where the relevant provisions of those Acts change during the year).

(3) For the purposes of these Regulations a person's marriage is to be treated as having been terminated, not only by the death of the other spouse or the annulment or dissolution of the marriage by an order of a court of competent jurisdiction, but also by virtue of the parties to the marriage ceasing ordinarily to live together, whether or not an order for their separation has been made by any court.

(4) A person shall be treated, for the purposes of regulation 9(2)(a) or 13, as ordinarily resident in England and Wales, in the British Islands, in **the European Community** or in the territory comprising **the European Community**, the Kingdom of Spain and the Portuguese Republic, if the authority are satisfied that he **would have been** so resident at the relevant time **but for the fact that** he, his spouse or his parent, guardian or any other person having actual custody of him during his minority, is, or was, temporarily employed outside England and Wales, outside the British Islands or, as the case may be, outside the European Community or the said territory and paragraph (1)(b) of regulation 13 shall not apply in the case of such a person.

(5) Except where the context otherwise requires, in these Regulations any reference to a regulation or a schedule is a reference to a regulation contained herein or a schedule hereto; and a reference in a regulation or a schedule to a paragraph is a reference to a paragraph of that regulation or schedule, and a reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph thereof.

Revocations and transitional provisions

6.—(1) **The Education (Mandatory Awards) Regulations 1988(c)** and the **Education (Mandatory Awards) (Amendment) Regulations 1989(d)** are hereby revoked.

(2) Subject to paragraph (6) and without prejudice to section 17(2)(b) of the Interpretation Act 1978(e) and the definition of "award" in regulation 2, an award bestowed in pursuance of previous awards Regulations before the coming into force of these Regulations, in so far as it could have been bestowed in pursuance of these Regulations, shall, for the purposes thereof, be treated as having been so bestowed.

(a) S.I. 1981/1086, to which there were amendments not relevant to these Regulations. Schedule 2 to the Regulations is revoked by the Education (Schools and Further and Higher Education) Regulations 1989 (S.I. 1989/351).
(b) 1988 c.40.
(c) S.I. 1988/1360.
(d) S.I. 1989/352.
(e) 1978 c.30.

(3) Where the current academic year of a student's course began in the spring or summer of **1989** then, notwithstanding anything in these Regulations, payments in pursuance of his award in respect of the year beginning on 1st January or, as the case may be, 1st April **1989** shall be the aggregate of–

(a) two-thirds or, as the case may be, one-third of the payments which would have fallen to be made in respect of that year under the **Education (Mandatory Awards) Regulations 1988** had they not been revoked, and

(b) one-third or, as the case may be, two-thirds of the payments which would have fallen to be made in respect of the year beginning on 1st September **1989** under these Regulations had the academic year of his course begun in the autumn of **1989**.

(4) Where an award was bestowed on a student under section 2 of the Education Act 1962 ("the discretionary award") in respect of a course to which section 1 of that Act did not then apply but the course becomes or has become a designated course and an award within the meaning of these Regulations is or has been bestowed on the student in respect of that course ("the mandatory award") then, if the discretionary award continues to be payable it shall be disregarded in calculating the student's income for the purposes of regulation 18(1)(b) and for the purposes of regulation 23; but payments on account of the mandatory award in respect of fees and in respect of maintenance for any period shall be respectively reduced or extinguished by those on account of the corresponding element of the discretionary award.

(5) The Education (Students' Dependants Allowances) Regulations 1983**(a)** revoked by the Education (Mandatory Awards) Regulations 1987**(b)** shall continue to have effect in relation to an allowance payable or paid thereunder in respect of a period falling before 1st September 1987.

(6) An award bestowed under previous awards regulations upon a person mentioned in regulation 9(2)(b) or (c) of the Education (Mandatory Awards) Regulations 1987 but not mentioned in regulation 9(2)(b) of these Regulations shall, in so far as it could otherwise have been bestowed in pursuance of these Regulations, for the purposes thereof, be treated as having been so bestowed.

PART II

AWARDS

Duty to bestow an award

7. In pursuance of section 1(1) of the Education Act 1962 it shall be the duty of an authority, subject to the conditions and exceptions hereinafter provided, to bestow an award in respect of a person's attendance at a designated course within the meaning of these Regulations during an academic year beginning after 31st August **1989** if the person concerned is ordinarily resident in the authority's area within the meaning of section 1 of the said Act of 1962 and Schedule 1 thereto, read with these Regulations.

Modification of provisions for determining ordinary residence

8.—(1) This regulation shall have effect for modifying paragraph 2 of Schedule 1 to the Education Act 1962 in the case of a person who, apart from this regulation, would be treated by virtue of that paragraph as having been ordinarily resident in the area of more than one authority within the period of twelve months ending with the date of the beginning of the course.

(2) Any such person as is described in paragraph (1) shall be treated as being ordinarily resident in the area of the authority in which he was so resident on the last day of the month of October, February, or June (according as the academic year of the course

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(a) S.I. 1983/1185, as amended by S.I. 1984/1179, 1985/1160 and 1986/1325.
(b) S.I. 1987/1261.

begins in the spring, the summer or the autumn respectively) preceding the beginning of the course.

No area students

9.—(1) This regulation shall apply in the case of such a person as is mentioned in paragraph (2) who, apart from this regulation, would by virtue of paragraph 2 of Schedule 1 to the Education Act 1962 fall to be treated for the purposes of section 1 of that Act as not being ordinarily resident in the area of any authority.

(2) The person referred to in paragraph (1) is a person who–

(a) is ordinarily resident in England and Wales on the relevant day; or

(b) is entitled to the payment of an award by virtue of Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community**(a)**.

(3) A person to whom this regulation applies shall be treated for the purposes of section 1 of the Education Act 1962 as ordinarily resident–

(a) if at any time during the period of two years preceding the relevant day he would have fallen to be treated as belonging to the area of an authority for the purposes of section 31(3) of the Education Act 1980**(b)** or of section 51(1) of the Education (No. 2) Act 1986**(c)** or of section 7 of the Education (Miscellaneous Provisions) Act 1953**(d)**, in the last such area;

(b) if sub-paragraph (a) does not apply but at any time during the said period he was resident in the area of an authority, in the last such area;

(c) if neither sub-paragraph (a) nor (b) applies, in the area of the authority in which the establishment providing his course is situate.

(4) In paragraphs (2) and (3)–

"relevant day" means, except in the case specified in paragraph (5), the last day of the momth of October, February or June (according as the academic year of the course begins in the spring, the summer or the autumn respectively) preceding the beginning of the course;

(5) In the case of a refugee, or the spouse or child of a refugee, **or a person mentioned in paragraph (3)(a) or (3)(b)(i) of regulation 13**, who entered the United Kingdom on or after the relevant date as defined in paragraph (4), "relevant day" in paragraphs (2) and (3) means–

(a) where he had entered the United Kingdom before the day one month earlier than that of the beginning of the term in which he commences his course, the said day or the day on which he applies for an award, whichever is the earlier;

(b) where he had not so entered the United Kingdom, the day of the beginning of that term or on the day on which he applies for an award, whichever is the earlier.

Designated courses

10.—(1) The following courses are hereby designated

(a) a first degree course, that is to say–

(i) a course provided by an establishment for a first degree of a university or for the degree of Bachelor of Medicine or an equivalent degree;

(ii) a course provided by an establishment of further education for a first degree of the Council for National Academic Awards;

(iii) a course provided either by the Cranfield Institute of Technology or by the Cranfield Information Technology Institute for a first degree of the former;

(iv) an international course, that is to say a course provided by an establish-

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

(b) 1980 c.20; section 31(3) was repealed by section 67(6) and Schedule 6 to the Education (No 2) Act 1986.

(c) 1986 c.61; section 51(1) came into force on the 1st September 1987.

(d) 1953 c.33; section 7 was repealed by section 38(6) and Schedule 7 to the Education Act 1980.

ment in the United Kingdom in conjunction with a university, college or other institution in another country for a first degree of a university or of the Council for National Academic Awards;

(b) a Dip HE course, that is to say–

(i) a course provided by an establishment for the Diploma of Higher Education;

(ii) a course provided by an establishment for the Diploma of Higher Education or a first degree as the student may elect after the commencement of the course;

(c) a course provided by an establishment of further education for the Higher National Diploma, or the Higher National Diploma of the Business & Technician Education Council;

(d) a course of initial training for teachers, that is to say–

(i) a course for the initial training of teachers (other than a course for the degree of Bachelor of Education) provided by an establishment;

(ii) a part-time course of teacher training, involving not less than 3 days' attendance a week during the course, for the time being designated for the purposes of this provision by the Secretary of State;

(iii) any other course of teacher training, whether part-time or partly full-time and partly part-time, for the time being so designated;

(e) a course comparable to a first degree course, that is to say–

(i) a course of at last 3 academic years' duration provided by a university for a certificate, diploma or other academic award; or

(ii) a course for the time being designated for the purposes of this provision by the Secretary of State.

(2) In this regulation references to an establishment and an establishment of further education do not include references to establishments of further education which are neither maintained nor assisted by recurrent grants out of public funds.

Conditions

11.—(1) Subject to paragraph (2), the duty of an authority to bestow an award shall be subject to the conditions that–

(a) an application in writing reaches the authority before the end of the term in which the student commences his course; and

(b) the applicant gives the authority a written undertaking that, where any provisional or other payments made in pursuance of the award in respect of a year exceed (for whatever reason) the grant payable in respect of that year, he will, if called upon to do so, repay the excess amount.

(2) For the purposes of paragraph (1)(a), an application shall be treated as having reached the authority as there mentioned–

(a) where, to the knowledge of the authority, an application has so reached some other authority;

(b) where, before the end of the term in which the student commenced his course, it has not become a designated course and the application reaches the authority before the end of the first term after it becomes a designated course;

(c) in the case of a refugee, or the spouse or child of a refugee, where the application reaches the authority before the end of the term of his course first beginning after the date on which the refugee was recognised as a refugee or was accorded asylum; or

(d) where, having regard to the circumstances of the particular case, the authority consider that it should be so treated.

(3) If the applicant is a minor, paragraph (1)(b) shall have effect, with the necessary modifications, as if the references to the applicant were references to the applicant or his parent.

Exceptions relating to attendance at previous courses

12.—(1) An authority shall not bestow an award on a person in respect of his attendance at a course if it is their duty under regulation 14 to transfer an award already bestowed on him so that it is held in respect of his attendance at that course.

(2) An authority shall not be under a duty to bestow an award on any person in respect of his attendance at any course designated by regulation 10(1)(b) or (c) if he has previously–

(a) successfully completed a course of teacher training designated under sub-paragraph (d)(ii) or (iii) of regulation 10(1); or

(b) attended any other course designated by or under regulation 10(1).

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(3) Subject to paragraphs (4) to (7), an authority shall not be under a duty to bestow an award on any person where he has previously attended one or more full-time, or satisfactorily completed one or more part-time or correspondence, courses of **higher** education and the aggregate duration of–

(a) such full-time courses which he has attended; and

(b) the full-time courses equivalent to such part-time or correspondence courses which he has successfully completed,

(ignoring any periods of unpaid service or research or of practice undertaken as part of the student's course of the kind mentioned in sub-paragraphs (a) to (g) of paragraph 1(1) of schedule 5 and, in the case of a sandwich course, periods of experience) exceeds two academic years; and, for the purposes hereof, a full-time, part-time or correspondence course outside England and Wales which is comparable to a full-time or, as the case may be, part-time course of **higher** education shall be treated as if it were such a course.

(4) A previous course shall be disregarded for the purposes of paragraph (3) if it was provided by a college providing long term residential courses of full-time education for adults which is specified in regulation 7 of the State Awards Regulations 1978**(a)**.

(5) A previous course shall be disregarded for the purposes of paragraph (3) if–

(a) the student is such a person as is mentioned in regulation 9(2)(b) being entitled to an award by virtue of Article 12 of the Regulation there mentioned;

(b) the previous course was provided by an institution outside the British Islands but within the European Community; and

(c) the authority are satisfied–

(i) by the student, that he has ceased to attend the previous course without completing it during the year immediately preceding the first year of that course to which his application for an award relates; and

(ii) by the academic authority of the establishment providing that course, that it is comparable, in terms of content, to the uncompleted part of the previous course.

(6) Nothing in paragraph (3) shall affect the duty of an authority to bestow an award on a person–

(a) in respect of his attendance at a course for the post-graduate Certificate in Education, the Art Teacher's Certificate or the Art Teacher's Diploma (or for a qualification comparable with any such certificate or diploma) unless he has previously attended such a course or successfully completed a course which–

(i) was for the degree of Bachelor of Education or a comparable academic award of either a university in the United Kingdom or the Council for National Academic Awards, and

(ii) was approved as a course for the initial training of teachers for the purposes of regulation 16(2)(a) of the Schools Regulations 1959**(b)** or of any corresponding provision of regulations from time to time in force under

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(a) S.I. 1978/1096, to which there are amendments not relevant to these Regulations.
(b) S.I. 1959/364, revoked by S.I. 1982/106.

section 27 of the Education Act 1980(a) or Section 218 of the Education Reform Act 1988(b);

(b) in respect of his attendance at any full-time course of initial training as a teacher of one academic year's duration, or a comparable part-time course, not within sub-paragraph (a) above, unless he has for more than three years held a statutory award in respect of his attendance at a full-time course of higher education or a comparable course outside England and Wales;

(c) in respect of his attendance at a course which

(i) does not exceed two years' duration;

(ii) is for the degree of Bachelor of Education or a comparable academic award of either a university in the United Kingdom or the Council for National Academic Awards, and

(iii) is approved as a course for the initial training of teachers for the purpose of regulations from time to time in force under Section 27 of the Education Act 1980 or Section 218 of the Education Reform Act 1988,

unless he has previously attended

(i) a course for the postgraduate Certificate in Education, the Art Teacher's Certificate or the Art Teacher's Diploma (or for a qualification comparable with any such certificate or diploma), or

(ii) a course (of any length) such as is described in sub-paragraphs (a)(i) and (ii) above.

(7) Nothing in paragraph (3) shall affect the duty on an authority to bestow an award on a person if–

(a) he is a refugee, or the spouse or child or a refugee;

(b) the previous course was a full-time course provided by an institution outside the British Islands; and

(c) he satisfies the authority that he ceased to attend the previous course, without completing it, during the four years immediately preceding his entering the United Kingdom.

(8) For the purposes of this regulation a person shall not be treated as having previously attended a course by reason only of his having attended from its beginning the course to which his application for an award relates.

(9)(a) For the purposes of this regulation a person shall only be treated as having attended a course if he has attended **and held a statutory award in respect of** either more than one course or one course for more than one term and seven weeks of a second term; and it is hereby declared that any reference to a person having attended or completed a course shall be construed as a reference to his having done so before or after the coming into operation of these Regulations.

(b) **For the purposes of this regulation a person shall only be treated as having completed a course if he has held a statutory award in respect of that course.**

Other exceptions

13.—(1) An authority shall not be under a duty to bestow an award in respect of a person's attendance at a course–

(a) upon a person who has not been ordinarily resident, throughout the three years preceding the first year of the course in question, in the British Islands or, in the case of such a person as is mentioned in regulation 9(2)(b), has not been so resident in the territory comprising–

(i) the European Community, and

(ii) (as regards any period prior to their accession to that Community) the Kingdom of Spain and the Portuguese Republic;

(b) upon a person whose residence in the British Islands or, in the case of such a

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(a) 1980 c.20; section 27 was repealed and replaced by section 218 of the Education Reform Act 1988 with effect from 1st April 1989.

(b) 1988 c.40; the Education (Teachers) Regulations 1989 (S.I. 1989/1319) come into force on 1st September 1989 and revoke S.I. 1982/106.

person as is mentioned in regulation 9(2)(b), in the European Community or the said territory, has during any part of the period referred to in sub-paragraph (a) been wholly or mainly for the purposes of receiving full-time education; or

(c) upon a person who has, in the opinion of the authority, shown himself by his conduct to be unfitted to receive an award.

(2) Sub-paragraphs (a) and (b) of paragraph (1) shall not apply in the case of a refugee, ordinarily resident in the British Islands, who has not ceased to be so ordinarily resident since he was recognised as a refugee or was granted asylum, in the case of the spouse or child of such a refugee, **or in the case of a person mentioned in paragraph (3).**

(3) That person is a person who is a British citizen within the meaning of the British Nationality Act 1981(a)–

(a) who was not ordinarily resident in the British Islands throughout the three years preceding the first year of the course in question only because he was ordinarily resident for the purposes of employment in the territory comprising the European Community during every part of that period in which he was not ordinarily resident in the British Islands; or

(b) (i) who was not so resident throughout that period only because his parent is such a person as is mentioned in sub-paragraph (a), and

(ii) whose parent is ordinarily resident in England and Wales on the relevant day as defined in relation to that person by paragraph (5) of regulation 9.

(4) In paragraph (3) "parent" includes a guardian or any other person having actual custody of a minor.

Transfer of awards

14.—(1) An award shall be transferred by the authority at the request of a student so as to be held in respect of attendance at a course other than that in respect of which it is held in any case where–

(a) subject to paragraph (2), on the recommendation of the academic authority the student commences to attend another course ("the new course") at the establishment;

(b) subject to paragraph (2), with the written consent of the academic authorities of both establishments concerned, given on educational grounds, the student commences to attend a course ("the new course") at another establishment;

(c) subject to paragraph (4), after commencing a course for the Certificate in Education, the student is, on or before the completion of that course, admitted to a course for the degree of Bachelor of Education;

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(d) subject to paragraph (4), after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the student is, on or before the completion of that course, admitted to a course for the honours degree of Bachelor of Education.

(2) An award shall not be transferred in pursuance of paragraph (1)(a) or (b) unless either–

(a) the requisite recommendation or consent is given before the expiry of four months after the end of the first year of the course in respect of which the award was originally bestowed; or

(b) the authority is satisfied, after consulting the academic authority or authorities concerned, that the fact that the requisite recommendation or consent is given after the expiry of the period specified in paragraph (a) is due only to the need to apply through a clearing admissions system; or

(c) the authority, after consulting the academic authority or authorities concerned, are satisfied that the period which the student in question will ordinarily require for the completion of the new course will expire not later than the period which he would now so require for the completion of the course in respect of which the award is held, ignoring–

(a) 1981 c.61.

(i) in each case, periods of experience which are part of a sandwich course; and

(ii) in the case of the course in respect of which the award is held, any period during which the student would now be required by the academic authority concerned to repeat part of the course, if the authority would not make any payment for maintenance in respect of that period under regulation 25(1).

(3) An authority may, after consulting the academic authority concerned, refuse the transfer of an award in pursuance of paragraph (1)(a) or (d) if they are satisfied that when the student applied for it he did not intend to complete the course to which his application related.

(4) An award shall not be transferred in pursuance of paragraph (1)**(c) or (d)** so as to be held in respect of his attendance at a course for the degree of Bachelor of Education if the period which the student in question would ordinarily require for the completion of that course, when aggregated with the period for which the student has already pursued a course in respect of which the award was held, exceeds–

(a) five years where the award would be held in respect of a course for the honours degree of Bachelor of Education; or

(b) four years where the award would be held in respect of a course for that degree not being an honours degree;

so, however, that where the student has pursued a part-time course, for the purposes hereof account shall only be taken of that proportion of the period for which he pursued that course which the period ordinarily required to complete the full-time course equivalent to the part-time course bears to the period so required to complete the part-time course.

(5) For the purposes of the duty of an authority to transfer an award in pursuance of paragraph (1)**(c) or (d)** it shall be immaterial whether or not the two courses are provided by the same establishment.

Termination of awards

15.—(1) An award shall terminate on the expiry of the period ordinarily required for the completion of the course:

Provided that–

(a) if the academic authority refuse to allow the student to complete the course, the authority shall terminate the award forthwith;

(b) if the student does not complete the course within the period ordinarily required, the authority–

(i) may extend the award until the student has completed the course; and

(ii) shall extend it for a period equivalent to any period in respect of which they have made any payment under regulation 25(1).

(2) The authority may, after consultation with the academic authority, terminate the award if they are satisfied that the student has either–

(a) abandoned the course in respect of which it is held and the award does not fall to be transferred in pursuance of regulation 14; or

(b) shown himself by his conduct to be unfitted to hold the award.

Supplementary provisions

12. The authority may require the student to provide from time to time such information as they consider necessary for the exercise of their functions under this Part, and if in the case of any student the authority are satisfied that he has wilfully failed to comply with any such requirement or has provided information which he knows to be false in a material particular or has recklessly provided information which is false in a material particular, they may terminate the award or withhold any payments due under it as they see fit.

PART III

PAYMENTS

Payments

17. Subject to regulations 16, 23, 25 and 26, the authority shall in respect of each year pay in pursuance of the award–

(a) in respect of fees, a sum equal to the aggregate of any such fees payable in respect of the student as are described in Schedule 1;

(b) in respect of maintenance–

(i) except in a case in which regulation 20, 21 or 22 applies, a grant calculated in accordance with regulation 18 (in these Regulations called "the maintenance grant");

(ii) in a case in which one of those regulation applies (subject to regulation 20(2)) a sum or grant determined in accordance with the regulation in question;

and so much of the sum or grant referred to in sub-paragraph (b) as appears to the authority to be appropriate shall be treated as being in respect of the Easter and Christmas vacations.

Calculation of maintenance grant

18.—(1) The maintenance grant in respect of any year shall be the amount by which the student's resources fall short of his requirements and for the purposes of ascertaining that amount–

(a) the requirements of the student shall be taken to be the aggregate of such of the amounts specified in Schedule 2 as are applicable in his case;

(b) the resources of the student shall be taken to be the aggregate of his income for the year calculated in accordance with Part 1 of Schedule 3 and any contribution applicable in his case by virtue of Part 2 or 3 of that Schedule.

(3) This regulation and Schedules 2 and 3 shall have effect–

(a) in the case of such a student as is mentioned in Schedule 4, subject to the provisions thereof;

(b) where regulation 20 applies, subject as therein provided.

Assessment of requirements and resources

12. The requirements and resources of a student shall be assessed by the authority and, for the purpose of the exercise of their function under this regulation, the authority shall require the student to provide from time to time such information as they consider necessary as to the resources of any person whose means are relevant to the assessment of his requirements and resources.

Sandwich courses

20.—(1) This regulation shall apply where the course is a sandwich course unless the student is a member of a religious order and regulation 21 applies.

(2) For the purpose of calculating payments in respect of maintenance under regulation 17(b) in respect of a sandwich year, that regulation and Schedules 2 and 3 shall have effect subject to the provisions of Schedule 5; but no such payments shall be made in respect of a year in which there are no periods of full-time study.

Members of religious orders

21.—(1) This regulation shall apply where the student is a member of a religious order ("the Order") unless the course is a course of teacher training designated under regulation 10(1)(d)(iii) and regulation 22 applies.

(2) Subject to paragraph (5), the payment in respect of maintenance under regulation 17(b) shall be the sum specified as appropriate in the case of the student in paragraph (3) or (4):

Provided that–

(a) where the course is a sandwich course, the payment in respect of a sandwich year shall be the prescribed proportion of the sum so specified and no payment shall be made in respect of a year which includes no periods of full-time study;

(b) where the course is a part-time course of teacher training designated under regulation 10(1)(d)(ii), the payment shall be three-quarters of the sum so specified.

(3) In the case of a student who resides at his parents' home or in a house of the Order, the appropriate sum shall be **£860**.

(4) In the case of any other student, the appropriate sum shall be **£1,175** except that, where he is attending a course–

(a) at the University of London, or

(b) at an establishment within the area comprising the City of London and the Metropolitan Police District

it shall be **£1,445** and where he is attending a course in a country outside the United Kingdom it shall be–

£1,800 if that country is a highest-cost country;

£1,590 if that country is a higher-cost country;

£1,385 if that country is a high-cost country; and

£1,175 in any other case.

(5) The payment in respect of maintenance, determined as aforesaid, shall, in the case of any student who is attending such a course as is mentioned in paragraph 10(1) of Part 2 of Schedule 2 and for the purposes thereof necessarily incurs expenditure in the purchase of special equipment, be increased by so much of that expenditure as does not during the course exceed £90.

Courses of teacher training

22.—(1) This regulation shall apply–

(a) where the course is a part-time course of teacher training designated under sub-paragraph (d)(ii) or (d)(iii) of regulation 10(1); or

(b) where it is a partly full-time and partly part-time one designated under the said sub-paragraph (d)(iii),

unless the student is a member of a religious order, the course is a part-time course of teacher training designated under the said sub-paragraph (d)(ii) and regulation 21 applies.

(2) Where the course is designated under the said sub-paragraph (d)(ii), the payment in respect of maintenance under regulation 17(b) shall be a grant equal to three-quarters of the maintenance grant.

(3) Subject to the following paragraphs, where the course is designated under the said sub-paragraph (d)(iii), the said payment under regulation 17(b) shall be–

(a) in a year in which the student's periods of study are all periods of full-time study or in which his aggregate period of full-time study is 30 weeks or more, the maintenance grant;

(b) in a year in which the student's periods of study are all periods of part-time study, the sum of **£310**;

(c) in any other year, a sum equal to the aggregate of–

(i) the proportion of the maintenance grant which the student's aggregate period of full-time study in the year, expressed in weeks, bears to 30, and

(ii) the proportion of **£310** which the difference between the said aggregate period and 30 weeks bears to 30.

(4) In relation to a student employed full-time as a teacher, paragraph (3) shall have effect, except in such a year as is mentioned in sub-paragraph (a) thereof, as if it provided that the said payment under regulation 17(b) should be **£85**.

(5) In relation to a student attending a course provided at the University of Oxford or

Cambridge, sub-paragraphs (a) and (c) of paragraph (3) shall have effect as if any reference therein to–

(a) a period of 30 weeks were a reference to a period of 25 weeks; and

(b) the proportion which a period expressed in weeks bears to 30 were a reference to the proportion which that period bears to 25.

(6) For the purposes of this regulation a day shall be reckoned as a seventh of a week.

Assisted students

23.—(1) Notwithstanding anything in the preceding provisions of these Regulations, no payment under regulation 17(a) or (b) shall be made to a **person** in respect of any year in respect whereof he receives such payments as are mentioned in paragraph (2) amounting to not less than the aggregate of–

(a) such fees payable in respect of him as are described in Schedule 1; and

(b) his requirements for maintenance ascertained in accordance with–

(i) Part 1 of Schedule 2,

(ii) paragraphs 5 and 6 of Part 2 of that Schedule, and

(iii) Parts 3 and 4 of that Schedule.

(2) The payments referred to in paragraph (1) are the aggregate payments received by the **person**–

(a) in pursuance of any scholarship, studentship, exhibition or award of similar description bestowed on him in respect of the course (otherwise than in pursuance of section 1 of the Education Act 1962); and

(b) if he is in gainful employment, by way of remuneration (reduced by income tax and social security contributions) paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending the course;

except that, if the **person's** course is a part-time course of teacher training designated under regulation 10(1)(d)(iii), and some or all of his periods of study are periods of part-time study, any payments by way of remuneration shall be disregarded.

(3) Notwithstanding anything in the preceding provisions of these Regulations, no payment under regulation 17(a) or (b) shall be made to a person in respect of any year in respect whereof he receives any payment in pursuance of any bursary or award of similar description bestowed on him in pursuance of section 63 of the Health Services and Public Health Act 1968(a) in respect of a course in nursing, occupational therapy, orthoptics, physiotherapy or radiography.

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Method of payment

24.—(1) The authority shall make any payment due under these Regulations in such instalments (if any) and at such times as they consider appropriate: and in the exercise of their functions under this paragraph the authority may in particular make provisional payments pending the final calculation of the award.

(2) Any payment in respect of such fees as are described in Schedule 1 may be made to the academic authority but subject thereto all payments shall be made to the student.

(3) Where, in pursuance of this regulation, a payment in respect of any period is made in advance or is provisional then, without prejudice to regulation 26 or the recovery of an over-payment by way of a deduction from a subsequent payment, any over-payment or under-payment shall be adjusted by payment between the student or, as the case may be, the academic authority and the authority.

(a) 1968 c.46; section 63 was amended by the National Health Service Reorganisation Act 1973 (c.32), section 57, Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c.49), section 129, Schedule 15, paragraph 45 and Schedule 16, the National Health Service (Scotland) Act 1978 (c.29), section 109, Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c.53), sections 1, 2 and Schedule 1, Part I, paragraph 19(3), the Local Government Act 1985 (c.51), section 102(2) and Schedule 17 and the Family Practitioner Committee (Consequential Modifications) Order (S.I. 1985/39), article 6(1).

Discretionary payments

25.—(1) In respect of any period during which the student repeats any part of his course, the authority shall not be required to make any payments under regulation 17(a) or (b) but may pay in pursuance of the award such sums (if any) as they consider appropriate, being sums not exceeding the amount of any payments that would, apart from this regulation, be payable to that student in respect of that period.

(2) Subject to paragraph (3), paragraph (4) shall apply in the case of a student who–

(a) has previously attended a course of **higher** education being–

(i) a course of up to two academic years' duration, in the case of one designated by or under regulation 10(1); or

(ii) a course of two academic years' duration, in the case of one not so designated

(ignoring any periods of unpaid service or research or of practice, undertaken as part of the course of the kind mentioned in sub-paragraphs (a) to (g) in the definition of "periods of experience" in paragraph 1(1) of Schedule 5 and, in the case of a sandwich course, periods of experience) or has previously successfully completed a part-time course corresponding to such a course as is mentioned above ('the previous course'); and

(b) holds an award bestowed so as to be held, in respect of a course designated by or under regulation 10(1)(a), (d) or (e) being a course ordinarily of more than one year's duration ('the current course').

(3) Paragraph (4) shall not apply if the current course is for the degree of Bachelor of Education and a subject thereof is–

(a) physics, chemistry or mathematics (or a combination of those subjects); or

(b) craft, design and technology; or

(c) business studies; or

(d) some other subject the study of which the authority are satisfied fits a person to teach in schools any of the above-mentioned subjects.

(4) Where this paragraph applies, the authority shall only be required to make payments under regulation 17(a) or (b) in pursuance of the award in respect of the current course–

(a) where that course is ordinarily of not more than two years' duration, in respect of the final year of the student's course which, in the case of a sandwich course, includes periods of full-time study;

(b) where that course is ordinarily of a greater number of years' duration, in respect of that number less two of the final years of the student's course which, in the case of a sandwich course, includes periods of full-time study;

but, in respect of any other year of the student's current course, they may make such payments as they consider appropriate not exceeding those which would, apart from this regulation, have been payable under regulation 17(a) or (b) as aforesaid.

(5) In this regulation any reference–

(a) to the ordinary duration of a course is a reference to the period ordinarily required for its completion by a student who is not excused part of the course on account of his having attended a previous course (ignoring any periods of unpaid service or research or of practice undertaken as part of the course of the kind mentioned in sub-paragraphs (a) to (g) in the definition of "periods of experience" in paragraph 1(1) of Schedule 5 and, in the case of a sandwich course, periods of experience);

(b) to the final year or years of a student's course is, in the case of a student so excused part of the course, a reference thereto after taking account of the consequential reduction in the duration of his course;

(c) to a person's having attended a course shall be construed as provided in regulation 12(9).

Withholding and reduction of payments

26.—(1) Without prejudice to regulation 16, in the case of any student who is for the time being in default of any requirement to provide such information as is described in

regulation 19, the authority may withhold, in part, any payment due to him in respect of maintenance and calculated or determined in accordance with regulation 18, 20 or 22.

(2) In respect of any period–

(a) after the termination of an award;

(b) during which a student is excluded from attendance at the course by the academic authority; or

(c) during which a student is absent from his course without leave,

any payment otherwise due in pursuance of the award shall be reduced by the aggregate sum mentioned in paragraph (4).

(3) In respect of any other period being–

(a) a period during which a student is absent from his course (other than a period of not more than 28 days due to illness);

(b) where an award held in respect of one course is transferred in pursuance of regulation 14 so as to be held in respect of another course, a period during which the student is not required to attend either course (other than the period of a single vacation); or

(c) a period during which the student is detained in pursuance of an order made by any court,

the authority may reduce any payment otherwise due in pursuance of the award by such amount, not exceeding the aggregate sum mentioned in paragraph (4), as having regard to all relevant circumstances they consider appropriate.

(4) The sum referred to in paragraphs (2) and (3) is the aggregate of–

(a) fees otherwise due that are not payable by reason of the student's non-attendance; and

(b) the appropriate proportion of the balance of any payments in respect of maintenance payable in pursuance of regulation 17(b).

SCHEDULE 1

Regulations 17, 23(1) and 24(2)

FEES

The fees referred to in regulation 17(a) are–

(a) the aggregate of any fees for admission, registration or matriculation (including matriculation exemption), any sessional or tuition fees, any composition fee and any graduation fee (in each case excluding any element thereof representing or attributable to any such fee as is mentioned in the following sub-paragraphs, or to maintenance) subject to a maximum of **£607**;

Provided that the said maximum–

(i) shall be **£1,712** in the case of a course at the University of Buckingham;

(ii) shall be **£303** in the case of a course designated under regulation 10(1)(d)(iii) unless the course is partly full-time and involves more than 10 weeks full-time attendance in the relevant year; and

(iii) shall not apply in the case of a course at the Guildhall School of Music, the Heythrop College, the Royal Academy of Music, the Royal College of Music, the Trinity College of Music or the London College of Music;

(b) college fees or dues at the universities of Cambridge, Durham, Kent, Lancaster, Oxford and York (excluding any element thereof representing or attributable to any such fee as is mentioned in the following sub-paragraph or to maintenance);

(c) any fees charged by an external body in respect of examinations or the validation of the course or otherwise charged by such a body whose requirements must (for the purposes of the course) be satisfied, or any fees attributable to fees so charged.

SCHEDULE 2

Regulations 18, 20(2), 21(5) and 23(1)

REQUIREMENTS

PART 1

ORDINARY MAINTENANCE

1.—(1) The requirements of the student referred to in regulation 18(1)(a) shall include his requirement for ordinary maintenance during–

(a) any period while he is attending the course; and

(b) the Christmas and Easter vacations;

and the amount of such requirement ("ordinary maintenance requirement") shall be determined in accordance with this Part of this Schedule.

(2) Where a student's ordinary maintenance requirements are different in respect of different parts of a year, his ordinary maintenance requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

2.—(1) This paragraph shall apply in the case of–

(a) any student who, on the recommendation of the academic authority, resides in the establishment or in a hostel or other accommodation administered by the academic authority;

(b) any independent or married student who does not reside at his parents' home;

(c) any other student who does not reside at his parents' home, except where he can in the opinion of the authority conveniently attend the course from his parents' home and the authority, after consultation with the academic authority, consider that in all the circumstances the ordinary maintenance requirement specified in paragraph 3(2) would be appropriate; and

(d) any student residing at his parents' home whose parents by reason of age, incapacity or otherwise cannot reasonably be expected to support him and in respect of whom the authority are satisfied that in all the circumstances the ordinary maintenance requirement specified herein would be appropriate.

(2) In the case of such a student the ordinary maintenance requirement shall be **£2,155** except that–

(a) where he is attending a course at the University of London or at an establishment within the area comprising the City of London and the metropolitan police district, it shall be **£2,650**; and

(b) where he is attending, for at least one term and as a necessary part of his course, an institution in a country outside the United Kingdom, it shall (notwithstanding anything in sub-paragraph (a)) be–

£3,330 if that country is a highest-cost country;

£2,935 if that country is a higher-cost country;

£2,545 if that country is a high-cost country; and

£2,155 in any other case.

3.—(1) This paragraph shall apply in the case of any other student, that is to say, in the case of–

(a) a student residing at his parents' home, except where the conditions specified in paragraph 2(1)(d) are satisfied;

(b) a student whose case falls within the exception to paragraph 2(1)(c).

(2) In the case of such a student the ordinary maintenance requirement shall be **£1,710.**

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PART 2

SUPPLEMENTARY MAINTENANCE ETC.

4. The requirements referred to in regulation 18(1)(a) shall include the student's requirements–

(a) for supplementary maintenance in the cases and for the periods mentioned in paragraphs **5**, **6**, and **11**; and

(b) in respect of such expenditure as is mentioned in paragraphs **7** to **10** and **12**;

and the amount of any such requirement ("supplementary requirement") shall be determined in accordance with this Part of this Schedule.

SCHEDULE 2: Part 2 – *continued*

5.—(1) This paragraph shall apply in the case of a student who having, in any academic year, attended his course–

(a) in the case of a course provided at the University of Oxford or Cambridge, for a period of 25 weeks 3 days, or

(b) in the case of any other course, for a period of 30 weeks 3 days,

in that year attends a course so provided for a further period ("the excess period").

(2) In respect of each week and any part of a week comprised in the excess period the supplementary requirement shall be–

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(a) in the case of a student residing at his parents' home, **£31.55**;

(b) in the case of any other student, **£45.05** except that–

(i) where he is attending a course at the University of London or at an establishment within the area comprising the City of London and the metropolitan police district, it shall be **£60.15**;

(ii) where he is attending, for at least one term and as a necessary part of his course, an institution in a country outside the United Kingdom, it shall (notwithstanding anything in sub-paragraph (i)) be–

£83.35 if that country is a highest-cost country;

£70.60 if that country is a higher-cost country;

£57.80 if that country is a high-cost country; and

£45.05 in any other case.

6.—(1) This paragraph shall apply in the case of a student who attends at his course for a period of not less than 45 weeks in any continuous period of 52 weeks.

(2) In respect of each aggregate period of a complete week for which he does not attend at his course in the period of 52 weeks in question, the student's supplementary requirement shall be determined in accordance with paragraph 5(2).

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7.—(1) This paragraph shall apply in the case of a student who is obliged to incur expenditure–

(a) within the United Kingdom for the purpose of attending the establishment;

(b) within or outside the United Kingdom for the purpose of attending, as part of his course, any period of study at an institution in a country outside the United Kingdom.

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(2) The reference in sub-paragraph (1)(a) to the student's attending the establishment shall be construed–

(a) in the case of any establishment which is a constituent college, hall or school (including medical school) of a university or is a university with such constituent establishments, as including a reference to his attending, in connection with his course, any constituent establishment of the university; and

(b) in the case of a student attending a course in medicine, dentistry or nursing, a necessary part of which is a period of study by way of clinical training, as including a reference to his attending, in connection with his course but otherwise than for the purposes of residential study away from the establishment, any hospital not comprised therein at which facilities for clinical training are provided.

(3) For the purposes of sub-paragraph (5)–

(a) a student's total travel expenditure is the aggregate amount of expenditure he is obliged to incur for any purpose specified in sub-paragraph (1);

(b) a student's special expenditure is the aggregate amount of expenditure he is obliged to incur for the purposes specified in sub-paragraph (1)(b)..., for the purpose of such attendance as is referred to in sub-paragraph (2)(b), and, in the case of a disabled student, for any other purpose specified in sub-paragraph (1) if it is expenditure which the authority are satisfied the student would not have incurred but for his disability:

Provided that, where a period of study outside the United Kingdom (whether or not at an institution) is not a necessary part of the student's course, so much of his expenditure for the purpose of attending that period of study as–

(a) was incurred outside the United Kingdom, or

(b) was incurred within the United Kingdom but is in respect of a journey between a port or airport within and a place outside the United Kingdom, or is in respect of a benefit to be enjoyed outside the United Kingdom,

shall not be treated as part of the student's total travel expenditure or special expenditure, save in so far as and to the extent that the authority consider appropriate.

(4) For the same purposes as aforesaid, the proportion of a student's maintenance requirements attributable to travel shall be deemed to be–

(i) **£120** of any requirement under paragraph **2**;

(ii) **£190** of any requirement under paragraph 3;

(iii) **£6.35** of any requirement under paragraph **5(2)(a)**;

(iv) **£4** of any requirement under paragraph **5(2)(b)**:

Provided that–

(a) where regulation 22(3) applies, the said proportion shall be deemed to be £85 and

(b) where a student's requirement under paragraph 2 or 3 relates to only part of the year, the said proportion shall be deemed to be an equivalent part of **£120** or **£190**, as the case may be.

(5) The student's supplementary requirement in respect of such expenditure as is referred to in sub-paragraph (1) shall comprise either–

(a) his special expenditure; or

(b) the amount by which his total travel expenditure exceeds the proportion of his maintenance requirements attributable to travel,

whichever is the less, and, where the course in respect of which the student's award was granted began before 1st September 1984, the amount (if any) by which his total travel expenditure excluding his special expenditure exceeds the sum of the proportion of his maintenance requirements attributable to travel and £150.

(6) For the purposes of this paragraph any reference to expenditure incurred for the purpose of attending an establishment or period of study includes expenditure both before and after so attending.

8.—(1) This paragraph shall apply in the case of a student whose home is for the time being outside the United Kingdom and who incurs expenditure travelling between his home and the establishment at the beginning and end of term.

(2) In determining the supplementary requirement of such a student under paragraph 7, the authority shall treat such amount of the said expenditure as they consider appropriate (having regard to the extent of that requirement apart from this paragraph), not exceeding the amount the student was obliged to incur, as if it were part of the student's total travel expenditure.

9.—(1) This paragraph shall apply in the case of a student who reasonably incurs any expenditure in insuring against liability for the cost of medical treatment provided outside the United Kingdom for any illness or bodily injury contracted or suffered during a period of study outside the United Kingdom.

(2) The student's supplementary requirement in respect of such expenditure shall be the amount reasonably incurred:

Provided that where the expenditure was incurred in connection with a period of study which was not a necessary part of his course, his requirement in respect thereof shall be such amount as the authority consider appropriate, not exceeding the said amount.

10.—(1) This paragraph shall apply in the case of a student who–

(a) is attending a course which began before 1st September 1986 in architecture, art and design, home economics, landscape architecture, medicine, music, ophthalmic optics, physical education, town and country planning or veterinary science (or medicine) or such a course comprising any of those subjects as a principal subject; and

(b) for the purposes thereof necessarily incurs expenditure in the purchase of special equipment.

(2) The student's supplementary requirement in respect of such expenditure shall be so much of the expenditure as does not during the course exceed £90.

11.—(1) This paragraph shall apply in the case of a student who, in any week during a vacation (not being a week in respect of which a supplementary requirement falls to be determined under paragraph 6) would, in the opinion of the authority, suffer undue hardship but for this paragraph.

(2) The student's supplementary requirement in respect of each such week shall be such amount as the authority consider appropriate having regard to his means, not exceeding **£50.95**.

12.—(1) This paragraph shall apply in the case of a disabled student where the authority are satisfied that by reason of his disability, he is obliged to incur additional expenditure in respect of his attendance at the course, other than expenditure for a purpose specified in paragraph 7(1).

(2) The student's supplementary requirement in respect of such expenditure shall be such amount as the authority consider appropriate not exceeding **£765**.

PART 3

MAINTENANCE OF DEPENDANTS

13.—(1) The requirements referred to in regulation 18(1)(a) shall include the student's requirements for the maintenance of dependants during the year and the amount of any such requirement ("dependants requirement") shall be determined in accordance with this Part of this Schedule.

(2) Where a student's requirements for the maintenance of dependants are different in respect of different parts of a year, his dependants requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

14.—(1) In this Part of this Schedule–

"adult dependant" means, in relation to a student, an adult person dependent on the student not being his child, his spouse or a person living with him as his spouse or his former spouse, subject however to sub-paragraphs (2), (3) and (4);

"child", in relation to a student, includes a person adopted in pursuance of adoption proceedings, a step-child **and a younger sibling whose guardian the student is and who is dependent on him**;

"dependant" means, in relation to a student, his dependent child, his spouse or an adult dependant, subject however to sub-paragraphs (2) and (3);

"income" means income for the year from all sources less income tax, social security contributions and child benefit and, in the case of the student's spouse, less–

(a) where the spouse holds an award in respect of a course of teacher training designated under regulation 10(1)(d)(iii), being a part-time course or a course which is partly full-time and partly part-time, the payments in respect of maintenance made to the spouse in pursuance of regulation 17(b) or so much of those payments as relates to the part-time part of the course;

(b) where the spouse or the student make any payment which was previously made by the student in pursuance of an obligation incurred before the first year of the student's course–

(i) if, in the opinion of the authority, the obligation had been reasonably so incurred, an amount equal to the payment in question;

(ii) if, in their opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to them appropriate;

(c) any allowance payable to the spouse by an adoption agency in pursuance of a scheme approved by the Secretary of State under section 57(4) of the Adoption Act 1976**(a)**;

(d) any guardian's allowance to which the spouse is entitled under section 38 of the Social Security Act 1975**(b)**;

(e) where a child in the care of a local authority is boarded out with the spouse any payment made to the spouse in pursuance of section 21(1) of the Child Care Act 1980**(c)**; and

(f) any payment made to the spouse pursuance to an order made under section 34 of the Children Act 1975**(d)**;

except that "income" does not include any attendance or mobility allowance under section 35 or 37A of the Social Security Act 1975**(e)** or any mobility supplement provided for in an order made under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977**(f)**;

"relevant award" means a statutory award in respect of a person's attendance at–

(a) a full-time course of **higher** education or a comparable course outside England and Wales;

(b) a course designated under sub-paragraph (d)(ii) of regulation 10(1); or

(c) the full-time part of a course designated under sub-paragraph (d)(iii) of regulation 10(1) which is partly full-time and partly part-time;

"spouse", except in the definition above of adult dependant, shall not include a student's

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(a) 1976 c.36.

(b) 1975 c.14; section 38 was amended by paragraph 12 of Schedule 4 to the Child Benefit Act 1975 (c.61) and by section 45 of the Social Security Act 1986 (c.50).

(c) 1980 c.5.

(d) 1975 c.72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22).

(e) Section 37A was inserted by section 22 of the Social Security Pensions Act 1975 (c.60).

(f) 1977 c.5; the relevant Order currently in force is the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883, amended by S.I. 1983/1116, 1521, 1986/592 and 1987/165).

spouse if they have ceased ordinarily to live together whether or not an order for their separation has been made by any court.

(2) A person including the student's spouse, shall not be treated as a dependant of the student during any period for which that person–

(a) holds a relevant award; or

(b) (save for the purposes of paragraph 17) is ordinarily living outside the United Kingdom.

(3) A person shall not be treated as a student's adult dependant or as his dependent child–

(a) in the case of a person other than a child of the student, if his income exceeds by **£565** or more the sum specified in paragraph 15(4)(a);

(b) in the case of a child of a student who either has a spouse who is, or but for sub-paragraph (2) would be, his dependant or has an adult dependant, if the child's income so exceeds the sum specified in paragraph 15(4)(b) as applicable to his age;

(c) in the case of a child of a student not falling within sub-paragraph (b), unless either–

(i) the child is the only or eldest child dependent on the student whose income does not so exceed the sum specified in paragraph 15(4)(a); or

(ii) the child's income does not so exceed the sum specified in paragraph 15(4)(b) as applicable to his age.

15.—(1) This paragraph shall apply in the case of a student with dependants.

(2) The dependants requirements of the student shall, subject to paragraphs 16 and 17, be–

(a) if the student's spouse holds a statutory award and in calculating payments under it account is taken of the spouse's dependants requirement, one half of the amount determined in accordance with sub-paragraphs (3) and (4);

(b) in any other case, the whole of the amount so determined.

(3) The amount referred to in sub-paragraph (2) shall be the amount which is $X-(Y-Z)$ where–

(a) X is the aggregate of the relevant sums specified in sub-paragraph (4);

(b) Y is the aggregate of the income of the student's dependants;

(c) Z is so much of the sum ascertained by multiplying **£565** by the number of his dependants as does not exceed Y.

(4) The relevant sums referred to in sub-paragraph (3) are–

(a) except where the student has a spouse who is the holder of a relevant award, **£1,455**; and

(b) in respect of each dependent child–

(i) under the age of 11 immediately before the beginning of the academic year, or born during that year, **£305**;

(ii) then aged 11 or over, but under 16, **£615**;

(iii) then aged 16 or over, but under 18, **£810**;

(iv) then aged 18 or over, **£1,165**;

except that the only or eldest dependent child shall be disregarded for the purposes hereof if the student has neither an adult dependant nor a spouse who is, or but for paragraph **14(2)** would be, a dependant.

16.—(1) This paragraph shall apply in the case of a student with dependants who maintains a home for himself and a dependant at a place other than that at which he resides while attending the course.

(2) The dependants requirement of the student (determined in accordance with paragraph 15(2)(a) or (b)), shall be increased by **£515.**

17.—(1) This paragraph shall apply in the case of a student who maintains any dependant outside the United Kingdom.

(2) Notwithstanding anything in the foregoing paragraphs of this Part of this Schedule, the dependants requirement of the student shall be of such amount, if any, as the authority consider reasonable in all the circumstances, not exceeding the amount determined in accordance with those paragraphs.

PART 4

OLDER STUDENTS

18.—(1) **In this Part of this Schedule, references to any provision of any of the Tax Acts passed**

before the Income and Corporation Taxes Act 1988(a) shall, in respect of a financial year ending after 5th April 1988, be construed as a reference to the corresponding provision of that Act in so far as that Act is applicable.

(2) This part of this Schedule shall apply in the case of a student who attained the age of 26 before the first year of the course in respect of which his award was originally bestowed and–

(a) has, where his course started before 1st September 1986, been in full-time employment for a total of three of the six years immediately preceding that year;

(b) has, where his course started after 31st August 1986, in the three years immediately preceding that year earned or received by way of such unemployment benefit, supplementary benefit or income support as is chargeable to income tax under respectively section 219 of the Income and Corporation Taxes Act 1970(b), section 27 of the Finance Act 1981(c) or section 29 of the Finance Act 1987(d) sums totalling at least £12,000; or

(c) held an award (or was in receipt of a grant under arrangements made under section 2 of the Education Act 1962(e)) in respect of his attendance at a previous course and–

(i) where the previous course started before 1st September 1986 was in full-time employment as aforesaid immediately preceding the first year of that previous course;

(ii) where the previous course started on or after 1st September 1986 had earned or received such sums as are mentioned at sub-paragraph (b) in the three years immediately preceding the first year of that previous course; or

(iii) was a person to whom paragraph 14 of Schedule 1 to the Awards (First Degree, etc. Courses) Regulations 1971(f), as from time to time amended(g), applied (or any provision to the like effect contained in such arrangements).

19. The requirements referred to in regulation 18(1)(a) shall, in the case of such a student, include–

(a) where at the beginning of the first year of his course he was aged 26 years, the sum of **£240**;

(b) where he was so aged 27 years, the sum of **£435**;
where he was so aged 28 years, the sum of **£645**;
where he was so aged 29 or more years, the sum of **£840**.

PART 5

CONSTRUCTION OF PARTS 1 TO 4

20. In this Schedule, any reference to the home of the student's parents shall be construed, in the case of a student whose spouse attends a full-time course at any establishment, as including a reference to the home of the parents of the student's spouse.

21. In this Schedule, except where the context otherwise requires, any reference to a requirement, expenditure or attendance in respect of which no period of time is specified shall be construed as a reference to a requirement, expenditure or attendance for the year.

22. For the purposes of this Schedule, attendance at an institution, or a period of study, is a necessary part of a student's course only where the authority are satisfied that if the student did not attend the institution, or undertake the period of study, he would not be eligible to complete his course; and, for the purpose of being so satisfied, the authority may require the matter to be evidenced by a certificate given by the academic authority.

(a) 1988 c.1.
(b) 1970 c.10.
(c) 1981 c.35.
(d) 1987 c.16.
(e) 1962 c.12.
(f) S.I. 1971/1297.
(g) S.I. 1972/1124, 1973/1233, 1298, 1644, 1974/1231, 1540.

SCHEDULE 3

Regulation 18

RESOURCES

PART 1

STUDENT'S INCOME

Calculation of student's income

1.—(1) In calculating the student's income for the purposes of Regulation 18(1)(b) there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, but there shall be disregarded the following resources–

(a) the first **£565** of... any income other than income of a kind mentioned in sub-paragraphs (b) to (s) and other than any sum treated as income under sub-paragraph (3)...;

(b) the first **£2,750** of any income by way of–

(i) scholarship, studentship, exhibition or award of a similar description bestowed on the student in respect of the course (in pursuance of a sponsorship scheme or otherwise) not being an award bestowed in pursuance of section 1 of the Education Act 1962; and

(ii) in the case of a student released by his employer to attend the course, any payments made by that employer;

(c) in the case of a student... for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5)

(i) the whole of that income or those payments **if a parental contribution ascertained in accordance with Part 2 or a spouse's contribution ascertained in accordance with Part 3 is applicable (at whatever amount including nil that contribution is ascertained to be), or**

(ii) **the first £1,290 of that income or those payments if such a contribution would be applicable but for the fact that the student has no parent living or is such a student as is described in paragraph 3(b), (c), (d), (e) or (f);**

(d) any disability pension not subject to income tax;

(e) any bounty received as a reservist with the armed forces;

(f) remuneration for work done during any year of the student's course;

(g) in the case of a student in whose case a parental contribution is by virtue of Part 2 of this Schedule applicable (at whatever amount including nil that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;

(h) any payment made for a specific educational purpose otherwise than to meet such fees and such requirements for maintenance as are specified in Schedules 1 and 2;

(i) child benefit;

(j) any benefit under the Supplementary Benefits Act 1976**(a)**, any income support under Part II of the Social Security Act 1986**(b)** and any transitional addition, personal expenses addition or special transitional addition payable under Part II of the Income Support (Transitional) Regulations 1987**(c)**;

(k) any attendance or mobility allowance under section 35 or 37A of the Social Security Act 1975**(d)**, or any mobility supplement provided for in an order made under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977**(e)**;

(l) any rate or rent rebate or rent allowance granted to him in pursuance of a statutory or local scheme under Part II of the Social Security and Housing Benefits Act 1982**(f)** or any housing benefit granted to him in pursuance of a scheme under Part II of the Social Security Act 1986**(g)**;

(a) 1976 c.71.
(b) 1986 c.50.
(c) S.I. 1987/1969.
(d) 1975 c.14; section 37A was inserted by section 22 of the Social Security Pensions Act 1975 (c.60).
(e) 1977 c.5; the relevant Order currently in force is the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883, amended by S.I. 1983/1116, 1521, 1986/592 and 1987/165).
(f) 1982 c.24; the statutory schemes under Part II were constituted by the provisions of the Housing Benefits Regulations 1985 (S.I. 1985/677, to which there were amendments, the only relevant ones being contained in S.I. 1986/1009).
(g) The Scheme under Part II is currently constituted by the provisions of the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), as amended by section 24(3) of the Employment Act 1988 (c.19), S.I. 1988/661, 1444 and 1971.

(m) any allowance payable to him by an adoption agency in pursuance of a scheme approved by the Secretary of State under section 57(4) of the Adoption Act 1976(a);

(n) any guardian's allowance to which he is entitled under section 38 of the Social Security Act 1975(b);

(o) in the case of a student with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 21(1) of the Child Care Act 1980(c);

(p) any payments made to the student in pursuance of an order made under section 34 of the Children Act 1975(d);

(q) any payments made to the student under the action programme of the European Community in Education and Training for Technology known as COMETT(e);

(r) any payments made to the student under the action scheme of the European Community for the Mobility of University Students known as ERASMUS(f);

(s) the first **£2,150** of any pension, however described, other than one of the kind mentioned at sub-paragraph (d) above, and including any such pension paid to the student as a widow, child or dependent.

(2) In the case of a student... who makes any payment in pursuance of an obligation incurred before the first year of course, in calculating his income for the purpose aforesaid there shall be deducted therefrom–

(a) if, in the opinion of the authority, the obligation had been reasonably so incurred, an amount equal to the payment in question;

(b) if, in their opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to them appropriate;

except that no deduction shall be made from the income of a married student where the student's spouse is a dependant for the purpose of Part 3 of Schedule 2 and, in pursuance of paragraph 14(1) thereof, the payment is taken into account in determining the spouse's income.

(3) In a case where the student is the parent or step-parent of an award holder in respect of whom a contribution is ascertained under Part 2 of this Schedule, so much of the amount (if any) by which the contribution is reduced under paragraph 4(4) as the authority consider just shall be treated as part of the student's income for the purposes of regulation 18(1)(b).

PART 2

PARENTAL CONTRIBUTION

Definitions and construction of Part 2

2.—(1) In this Part of this Schedule–

"child" includes a person adopted in pursuance of adoption proceedings and a step-child but, except in paragraph 4, does not include a child who holds a statutory award; and, except as otherwise provided by paragraph 5, "parent" shall be construed accordingly;

"gross income" has the meaning assigned to it by paragraph 5;

"income of the student's parent" means the total income of the parent from all sources computed as for income tax purposes, except as otherwise provided by paragraph 5 or 6;

"residual income" means, subject to sub-paragraph (2), the balance of gross income remaining in any year after the deductions specified in paragraph 6 have been made;

"total income" has the same meaning as in section 32 of the Finance Act 1971(g); and

references to any provision of any of the Tax Acts passed before the Income and Corporation Taxes Act 1988(h) shall, in respect of a financial year ending after 5th April 1988, be construed as a reference to the corresponding provision of that Act, in so far as that Act is applicable.

(2) Where, in a case not falling within paragraph 5(3) or (4), the authority are satisfied that the income of the parent in any financial year is as a result of some event beyond his control likely to

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(a) 1976 c.36.
(b) 1975 c.14; section 38 was amended by paragraph 12 of Schedule 4 to the Child Benefit Act 1975 (c.61) and by section 45 of the Social Security Act 1986 (c.50).
(c) 1980 c.5.
(d) 1975 c.72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22).
(e) OJ No L222, 8.8.86, p.17.
(f) OJ No L166, 25.6.87, p.20.
(g) 1971 c.68.
(h) 1988 c.1.

be, and to continue after that year to be, not more than 85 per cent of his income in the financial year preceding that year, they may, for the purpose of enabling the student to attend the course without hardship, ascertain the parental contribution for the year of his course in which that event occurred by taking as the residual income the average of the residual income for each of the financial years in which that year falls.

(3) Where the student's parent satisfies the authority that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then, if the authority and the parent so agree, any reference in this Part of this Schedule to a financial year shall be construed as a reference to a year ending with such date as appears to the authority expedient having regard to the accounts kept in respect of that business or profession and the periods covered thereby.

(4) Where a parent is in receipt of any income which does not form part of his total income by reason only that–

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

(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 this Part of this Schedule shall be computed as though the income first mentioned in this sub-paragraph were part of his total income.

Application of Part 2

3. A parental contribution ascertained in accordance with this Part shall be applicable in the case of every student except–

(a) an independent student;

(b) a student in respect of whom the authority are satisfied either–

(i) that his parents cannot be found; or

(ii) that it is not reasonably practicable to get in touch with them;

(c) a student who has been in the care of a local authority or in the care of a voluntary organisation within the meaning of section 88 of the Children Act 1975**(a)** throughout the **two** years immediately preceding–

(i) the first year of his course; or

(ii) without prejudice to sub-paragraph (i), his attaining the age of 18 years where he had attained that age before the first year of his course,

and has not, at any time in the said period, been allowed by the local authority to be under the charge and control of his parents or, in the case of a student who has been in the care of a voluntary organisation, has not, at any such time, in fact been under such charge and control;

(d) a student whose parents are residing overseas where the authority are satisfied either–

(i) that the assessment of a parental contribution would place those parents in jeopardy; or

(ii) that it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;

(e) a student who has been the subject of a custodianship order made under section 33 of the Children Act 1975 throughout the **two** years immediately preceding–

(i) the first year of his course; or

(ii) without prejudice to sub-paragraph (i), his attaining the age of 18 years where he had attained that age before the first year of his course;

(f) where sub-paragraph (7) of paragraph 5 applies and in the year preceding the first year of his course the student has had his home with the parent whom the authority considered the more appropriate for the purposes of that sub-paragraph and that parent has died.

Parental contribution

4.—(1) In the case of a student who attained the age of 18 before the 15th March 1988 and who

(a) began his course before **that date**; or

(b) **began a previous designated course before that date and has not subsequently had a break of two years or more during which he was not attending any designated course,**

the parental contribution shall, subject to sub-paragraphs (3), (4), and (5) be–

(a) in any case in which the residual income is **£10,600** or more but less than **£13,500, £60** with the addition of £1 for every complete £7 by which it exceeds **£10,600**;

(a) 1975 c.72.

(b) in any case in which the residual income is **£13,500** or more but less than **£19,800, £474** with the addition of £1 for every complete £5 by which it exceeds **£13,500**; and

(c) in any case in which the residual income is **£19,800** or more, **£1,734** with the addition of £1 for every complete £4 by which it exceeds **£19,800**,

reduced in each case in respect of each child of the parent (other than the student) who is wholly or mainly dependent on him on the first day of the year for which the contribution falls to be ascertained, by £100; . . . and in any case in which the residual income is less than **£10,600** the parental contribution shall be nil.

(2) In any other case, a parental contribution shall, subject to sub-paragraphs (3), (4) and (5) be 75 per cent of the amount that would be applicable if sub-paragraph (1) applied in his case, rounded to the nearest pound or rounded up to the nearest pound where the calculation produces a remainder of 50p exactly.

(3) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall in no case exceed **£5,300**.

(4) For any year in which a statutory award is held by–

(a) more than one child of the parent;

(b) the parent; or

(c) the student's step parent,

the parental contribution for the student shall be such proportion of any contribution ascertained in accordance with this Part as the authority (after consultation with any other authority concerned) consider just:

Provided that where a contribution is ascertained in respect of more than one child of the parent–

(a) where the contributions are either all ascertained under sub-paragraph (1) or all ascertained under sub-paragraph (2), the aggregate amount of the contributions in respect of each shall not exceed the amount of the contribution that would be ascertained if only one child held an award; or

(b) where the contributions are ascertained under both sub-paragraph (1) and sub-paragraph (2), the aggregate amount of the contributions shall not exceed the average of both or all (as the case may be) the contributions thus ascertained.

(5) Where in any year a student attends only part of his course the parental contribution for that year shall be reduced pro rata.

Gross income

5.—(1) For the purposes of this paragraph "preceding financial year" means the financial year preceding the year in respect of which the resources of the student fall to be assessed and "current financial year" means the financial year which includes the first day of the year:

Provided that where references to a financial year fall to be construed in accordance with paragraph 2(3) as references to a year ending less than five months before the beginning of a year of the student's course, "preceding financial year" shall mean the year last ending five or more months before the year in respect of which the resources of the student fall to be assessed and "current financial year" shall mean the year ending within those five months.

(2) Subject to the provisions of this paragraph, "gross income" means the income of the student's parent in the preceding financial year or, for the purpose of calculating residual income under paragraph 2(2), in the financial year there mentioned.

(3) Where the authority are satisfied that the income of the parent in the current financial year is likely to be not more than 85 per cent of his income for the preceding financial year, they may for the purpose of calculating the parental contribution ascertain the gross income by reference to the current financial year; and in such case sub-paragraph (2) shall have effect, in relation to the year in respect of which the student's resources fall to be assessed and, if the authority so determine, any subsequent year, as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where–

(a) one of the student's parents dies either before or during the year in respect of which the resources of the student fall to be ascertained ("the relevant year"); and

(b) that parent's income has been or would be taken into account for the purpose of determining the parental contribution,

the parental contribution shall–

(a) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or

(b) where the parent dies during the relevant year, be the aggregate of–

(i) the appropriate proportion of the contribution determined by reference to the income of both parents that is to say such proportion thereof as the part of the

relevant year during which both parents were alive bears to the full year **subject to a maximum of the appropriate proportion of the student's maintenance requirements as determined in accordance with Schedule 2**; and

(ii) the appropriate proportion of the contribution determined by reference to the income of the surviving parent, that is to say such proportion thereof as the part of the relevant year remaining after the parent dies bears to the full year **subject to a maximum of the appropriate proportion of the student's maintenance requirements as determined in accordance with Schedule 2.**

(5) Without prejudice to sub-paragraph (6), where, in pursuance of any trust deed or other instrument or by virtue of section 31(1) of the Trustee Act 1925(a) or any other enactment, any income is applied by any person for or towards the maintenance, education or other benefit of the student or of any person dependent on the student's parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross income of the parent.

(6) Where any such benefit as is mentioned in paragraph 1(1)(b)(i) of Part 1 of this Schedule is provided, by reason of the parent's employment, for any member of his family or household who holds a statutory award (whether the student or some other such member) then, notwithstanding the provisions of section 61 of the Finance Act 1976(b), that benefit shall not be treated as part of the gross income of the parent.

(7) Where the parents do not ordinarily live together throughout the year in respect of which the resources of the student fall to be ascertained ("the relevant year"), the parental contribution shall be determined by reference to the income of whichever parent the authority consider the more appropriate in the circumstances.

(8) Where the parents do not ordinarily live together for part only of the relevant year, the parental contribution shall be the aggregate of–

(a) the appropriate proportion of the contribution determined as provided in sub-paragraph (7), that is to say such proportion thereof as the part of the relevant year for which the parents do not so live together bears to the full year; and

(b) the appropriate proportion of the contribution determined without regard to this sub-paragraph, that is to say, such proportion thereof as the part of the relevant year for which the parents so live together bears to the full year.

(9) Where one of the student's parents is his step-parent the parental contribution shall be ascertained by reference only to the income of the other parent.

Deductions

6.—(1) For the purposes of determining the income of a student's parent (and, accordingly, the parent's gross income), in so far as in computing his total income for income tax purposes any deductions fall to be made–

(a) by way of personal reliefs provided for in Chapter II of Part I of the Income and Corporation Taxes Act 1970(c) or section 26 of the Finance Act 1987(d);

(b) in respect of any payment made by the parent under covenant;

(c) in pursuance of any Act passed after the passing of the Finance Act 1987 on 15 May 1987; or

(d) without prejudice as aforesaid, of a kind mentioned in sub-paragraph (2),

the parent's income shall be determined as though those deductions did not fall to be made.

(2) For the purpose of determining a parent's residual income there shall be deducted from his gross income–

(a) in respect of any person, other than a spouse, child or holder of a statutory award, dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which **£1,380** exceeds the income of that person in that year;

(b) the gross amount of any sums paid as interest (including interest on a mortgage) in respect of which relief is given under the Income Tax Acts in respect of a loan to the parent;

(c) half of the gross amount of any premium payable under a policy of life insurance in respect of which relief is given under section 19 or 227 of the Income and Corporation Taxes Act 1970 (life policy and certain other premiums) in the relevant year;

(d) the gross amount of any other premium or sum in respect of which relief is given under section 19, 20 (dependants pension schemes) or 227 of that Act or section 31 of the Finance (No. 2) Act 1987(e) in the relevant year;

(a) 1925 c.19. **(b)** 1976 c.40. **(c)** 1970 c.10. **(d)** 1987 c.16. **(e)** 1987 c.51.

(e) where the parents ordinarily live together and one of them is incapacitated, so much of the cost in wages of domestic assistance as does not exceed **£1,090**;

(f) where a parent whose marriage has terminated either is gainfully employed or is incapacitated, so much of the cost in wages of domestic assistance as does not exceed **£1,090**;

(g) in respect of additional expenditure incurred by reason of the fact that parent lives in a place where the cost of living is higher than that cost in the United Kingdom, such sum (if any) as the authority consider reasonable in all the circumstances;

(h) in the case of a parent who holds a statutory award, the amount by which the aggregate of his requirements for his ordinary maintenance (ascertained in accordance with Part 1 of Schedule 2) and **£565** exceeds the sum payable in respect of maintenance in pursuance of that award;

(i) any payments made pursuant to an order made under section 34 of the Children Act 1975**(a)**.

(3) In any case where income is computed as though it were total income by virtue of paragraph 2(4), there shall be deducted from the parent's gross income sums equivalent to the deductions mentioned in (b), (c), (d) or (i) of sub-paragraph (2), provided that any sums so deducted shall not exceed the deductions that would be made if the whole of the parent's income were in fact total income.

PART 3

SPOUSE'S CONTRIBUTION

Application of Part 3

7. A spouse's contribution ascertained in accordance with this Part shall be applicable in the case of every man student ordinarily living with his wife and every woman student so living with her husband except–

(a) a student in whose case a parental contribution is applicable in accordance with Part 2; and

(b) a student whose child holds an award in respect of which a parental contribution is applicable.

Spouse's contribution

8.—(1) Subject to sub-paragraphs (3) and (4), Part 2 above, except paragraphs 3, 4(1), (2), (3) and (4)(a) and (c), 5(4), (7), (8) and (9), and 6(2)(f), shall apply with the necessary modifications for the ascertainment of the spouse's contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed, except where the context otherwise requires, as references to the student's spouse and, unless the context otherwise requires, this Part shall be construed as one with the said Part 2.

(2) The spouse's contribution shall be–

(a) in any case in which the residual income is **£8,400** or more but less than **£13,500**, £10 with the addition of £1 for every complete £7 by which it exceeds **£8,400**;

(b) in any case in which the residual income is **£13,500** or more but less than **£19,800**, **£738** with the addition of £1 for every complete £5 by which it exceeds **£13,500**; and

(c) in any case in which the residual income is **£19,800** or more, **£1,998** with the addition of £1 for every complete £4 by which it exceeds **£19,800**;

reduced in any such case by £100 in respect of each child of the student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than **£8,400** the spouse's contribution shall be nil:

Provided that the amount of the spouse's contribution shall in no case exceed **£5,300**.

(3) If the student marries during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the date of the marriage and whichever is the earlier of the end of that year and the end of the course.

(4) If the student's marriage terminates during any year for which the contribution falls to be ascertained the contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragaphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the marriage.

(a) 1975 c.72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates Courts Act 1978 (c.22).

SCHEDULE 4

Regulation 18(2)

SINGLE STUDENTS WITH DEPENDANTS

1. This Schedule shall apply in the case of a student who does not ordinarily live with a spouse or with another person as a spouse.

2.—(1) This paragraph shall apply where the student has dependants within the meaning of Part 3 of Schedule 2.

(2) In the case of such a student–

(a) the sum to be disregarded under paragraph 1(1)(a) of Schedule 3 shall be **£1,285** instead of **£565**; or

(b) his requirements under paragraph 15 of Part 3 of Schedule 2 shall be treated as increased by the sum of **£720**; or

(c) in the case of a student to whom Part 4 of Schedule 2 applies, his requirements shall be treated as including the sum specified in paragraph 19 thereof,

whichever is the most favourable to him (disregarding sub-paragraph (b) where, in pursuance of the following paragraph, he elects as there mentioned).

3.—(1) This paragraph shall apply in the case of a student with one or more child dependants under the age of 19 years and for the purpose of this paragraph "child" shall have the same meaning as in Part 3 of Schedule 2.

(2) Such a student may elect that the sum specified as his requirements in Part 3 of Schedule 2 shall be disregarded and that instead there shall in calculating his income be disregarded **£1,505** in respect of his only or eldest such child and **£475** in respect of every other such child.

SCHEDULE 5

Regulations 2, 4(3) and 20

SANDWICH COURSES

1.—(1) In this Schedule–

"sandwich course" means a course consisting of alternate periods of full-time study in an establishment and periods of experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period;

"periods of experience" means, subject to sub-paragraph (2), periods of industrial, professional or commercial experience associated with full-time study at the establishment but at a place outside the establishment, other than periods of–

(a) unpaid service in a hospital or in a public health service laboratory;

(b) unpaid service with a local authority acting in the exercise of their functions relating to health, welfare or the care of children and young persons or with a voluntary organisation providing facilities or carrying out activities of a like nature;

(c) unpaid service in the probation and aftercare service;

(d) teaching practice;

(e) unpaid research in an establishment;

(f) such experience as aforesaid falling wholly within the terms at the establishment in any year which do not comprise paid service or employment and either–

(i) do not aggregate more than 6 weeks during that year; or

(ii) do not aggregate more than 12 weeks during that and some other year taken together, where that other year has not already been taken into account for the purposes hereof; or

(g) unpaid service with–

(i) a health authority (within the meaning of section 128(1) of the National Health Service Act 1977**(a)**;

(ii) a health board constituted under section 2 of the National Health Service (Scotland) Act 1978**(b)**; or

(iii) a health and social services board established under Article 16 of the Health and Personal Social Services Order (Northern Ireland) 1972**(c)**;

(a) 1977 c.49, amended by paragraph 11 of Schedule 3 to the Health and Social Security Act 1984 (c.48).
(b) 1978 c.29.
(c) S.I. 1972/1265 (N.I. 14).

"sandwich year" means, as respects any student, any year of a sandwich course which includes both periods of full-time study in the establishment and periods of experience;

"prescribed proportion" means the proportion which the number of weeks in the year for which the student in question attends the establishment bears to 30, except where that proportion is greater than the whole it means the whole;

"modified proportion" means the proportion which the number of weeks in the year in which there are no periods of experience for the student in question bears to 52.

(2) In the case of a student studying modern languages whose course includes periods of residence in a country whose language is a main language of the course, "periods of experience" means such periods of residence for which he is in gainful employment.

(3) For the purposes of determining the prescribed proportion or the modified proportion where the number of weeks in question is not a whole number, a day shall be reckoned as a seventh of a week.

(4) In the application of this Schedule to a student to whom Schedule 4 applies, references to Schedules 2 and 3 are to be construed as references to those Schedules as modified in accordance with Schedule 4.

(5) In the application of this Schedule to a student attending a course provided at the University of Oxford or of Cambridge the provisions thereof shall have effect as if–

(a) in the definitions of "prescribed proportion" in sub-paragraph (1) for the number "30" there were substituted the number "25"; and

(b) in paragraph 2 for the words "30 weeks 3 days", in both places where they occur, there were substituted the words "25 weeks 3 days".

2. The provisions of Schedule 2 shall, as respects any sandwich year, have effect subject to the following modifications–

(a) where the period of full-time study does not exceed 30 weeks 3 days, the student's requirements for his ordinary maintenance shall be the prescribed proportion of the appropriate amount specified in Part 1;

(b) where the period of full-time study exceeds 30 weeks 3 days, the student's requirements for his ordinary and supplementary maintenance shall be the aggregate of the appropriate amount specified in Part 1 and the appropriate amount specified in paragraph 5 of Part 2;

(c) the student's requirement for the maintenance of a dependant shall be the modified proportion of the sum specified in Part 3 except that where such a requirement falls to be increased under paragraph 16 it shall be increased by the prescribed proportion of the sum there specified; and

(d) if the student is a person to whom Part 4 applies, his requirements under that Part shall be the modified proportion of the amount there specified.

3. The provisions of Schedule 3 shall, as respects any sandwich year, have effect subject to the following modifications–

(a) the sum to be disregarded under paragraph 1(1)(a) of Part 1 shall be the prescribed proportion of **£565** and the reference in paragraph 1(1)(c) to **£1,290** shall be construed as a reference to the aggregate of **£725** and the prescribed proportion of **£565**;

(b) in calculating the student's income,

(i) there shall be disregarded any payment made to him by his employer in respect of any period of experience;

(ii) **the prescribed proportion of his income shall be treated as if it were the whole of his income**;

(c) the amount of the parental contribution applicable to his case shall be the prescribed proportion of the contribution ascertained in accordance with Part 2; and

(d) the amount of the spouse's contribution applicable to his case shall be the prescribed proportion of the contribution ascertained in accordance with Part 3.

John MacGregor
Secretary of State for Education and Science

8th August 1989

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on the 1st September 1989, supersede the Education (Mandatory Awards) Regulations 1988 which are revoked (Regulation 6(1).)

Provisions in these regulations which differ from the corresponding provisions of the 1988 Regulations (except as a result of minor drafting or consequential changes) are indicated by the use of heavy type. Omissions are indicated by the use of dots. The changes of substance other than the changes in rates of grant are described below.

Previous study will no longer affect a student's entitlement to an award unless the student received a UK statutory award in respect of that study. Provisions relating to the eligibility for awards of students having attended a two-year course comparable to a first degree, and wishing to attend another designated course of two years' duration, had become redundant and have been removed. (Regulation 12.)

Awards will no longer be transferred at the request of the student where on completion of a course for the degree of Bachelor of Education, the student is admitted to a course of initial training for teachers of the deaf. Awards may now be transferred after the expiry of four months after the end of the first year of the original course but only where the expiry of that time limit is due solely to the need to apply through a clearing admissions system. (Regulation 14.)

New provisions have been inserted to deal with the position of British workers and their children returning to the United Kingdom from other European Community countries. (Regulation 13(3) and (4).)

Some courses in respect of which Department of Health bursaries are payable are designated courses with effect from 1st September 1989; recipients of such bursaries will not also be entitled to a mandatory award. (Regulation 23.)

The provisions relating to students provided with free board and lodging or who are only charged if their resources exceed their requirements have been removed. (Schedule 2 and the previous Regulation 24.) Provisions relating to students at establishments of further education which are not wholly maintained out of public funds or at the Royal Naval Engineering College, Manadon have also been removed. (Schedule 2.)

In paragraph 3 of Part 2 of Schedule 3 the period of three years has been reduced to two.

In calculating the amount of an award account will now be taken of any younger brother or sister for whom the student is legally and financially responsible. (Schedule 2 Part 3 paragraph 14.)

Trust income is to be disregarded where a parental contribution is applicable and disregarded up to £1,290 in certain other cases. (Schedule 3 Part 1 paragraph 1(1)(c).)

Only a proportionate part of the income of a student on a sandwich course (apart from income which is disregarded altogether) is to be taken into account in calculating his award. (Schedule 5 paragraph 3(b).)

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