STATUTORY INSTRUMENTS

2008 No. 1582

EDUCATION, ENGLAND AND WALES

EDUCATION, NORTHERN IRELAND

The Education (Student Support) (No.2) Regulations 2008

Made - - - - *17th June 2008*

Laid before Parliament *26th June 2008*

Coming into force in accordance with regulation 1

CONTENTS

PART 1
GENERAL

1. Citation, commencement, application and extent 7
2. Interpretation 7
3. Amendment of the Education (Student Support) Regulations 2008 17
4. Revocation, savings and transitional provisions 17

PART 2
ELIGIBILITY

5. Eligible students 18
6. Designated courses 20
7. Period of eligibility 21
8. Transfer of status 22

PART 3
APPLYING FOR SUPPORT, PROVISION OF INFORMATION AND LOAN CONTRACTS

9. Applications for support 23
10. Time limits 23
11. Information 23
12. Requirement to enter into a contract for a loan 23

PART 4
FEE SUPPORT
CHAPTER 1
GENERAL

13. Previous course 24
14. Miscellaneous 25

CHAPTER 2
TYPES OF FEE SUPPORT AVAILABLE

15. Current system students 26
16. Old system students 26
17. Students becoming eligible in the course of an academic year 26
18. Events 26
19. Students to be treated as in attendance on a course 27

CHAPTER 3
FEE LOANS FOR CURRENT SYSTEM STUDENTS

20. Availability of fee loans to current system students - general 27
21. Standard entitlement of current system students who have not studied on a previous course 28
22. Standard entitlement of current system students who have transferred from or otherwise studied on a previous course 28
23. Standard entitlement of current system students on end-on courses and certain degree courses 29
24. Amount of the fee loan 30

CHAPTER 4
GRANTS FOR FEES FOR OLD SYSTEM STUDENTS

25. Old system students who are continuing students 31
26. Old system students who are transferring students 32
27. Old system students who are on end-on courses 34
28. Old system students who are gap year students who have not studied on a previous course 35
29. Old system students who are gap year students who have studied on a previous course 35
30. Availability of the grant for fees to old system students for years of repeat study 36
31. Amount of the grant for fees for a course at a publicly funded institution 36
32. Amount of the grant for fees for a course that is provided at a private institution on behalf of a publicly funded institution 37
33. Amount of the grant for fees for a course at a private institution 37

CHAPTER 5
FEE CONTRIBUTION LOANS FOR OLD SYSTEM STUDENTS

34. Availability of fee contribution loans to old system students 38
35. Amount of the fee contribution loan 38

PART 5
GRANTS FOR LIVING AND OTHER COSTS
CHAPTER 1
TYPES OF GRANTS AVAILABLE

36. Current system students 39

37. Old system students 39

CHAPTER 2
GENERAL PROVISIONS
38. General qualifying conditions for grants for living and other costs 39
39. Students who are treated as in attendance 40

CHAPTER 3
DISABLED STUDENTS' ALLOWANCES
40. Qualifying conditions for the disabled students' allowance 41
41. Amount of the disabled students' allowance 41

CHAPTER 4
GRANTS FOR DEPENDANTS
42. Interpretation of Chapter 4 41
43. General 44
44. Adult dependants' grant 44
45. Childcare grant 44
46. Parents' learning allowance 45
47. Calculations 45

CHAPTER 5
GRANTS FOR TRAVEL
48. Interpretation 47
49. General 47
50. Qualifying conditions for the grant for travel – courses in medicine and dentistry 47
51. Amount of the grant for travel – courses in medicine and dentistry 47
52. Qualifying conditions for the grant for travel – overseas study 47
53 - 54 Amount of the grant for travel – overseas study 47
55. Deductions from the grant for travel 48

CHAPTER 6
MAINTENANCE GRANTS FOR CURRENT SYSTEM STUDENTS
56. Qualifying conditions for the maintenance grant 48
57. Amount of the maintenance grant – 2008 cohort students 48
58. Amount of the maintenance grant – current system students who are not 2008 cohort students 49

CHAPTER 7
SPECIAL SUPPORT GRANTS FOR CURRENT SYSTEM STUDENTS
59. Qualifying conditions for the special support grant 51
60. Amount of the special support grant – 2008 cohort students 51
61. Amount of the special support grant – current system students who are not 2008 cohort students 52

CHAPTER 8
HIGHER EDUCATION GRANTS FOR OLD SYSTEM STUDENTS
62. Qualifying conditions for the higher education grant 54
63. Amount of the higher education grant 54

PART 6

LOANS FOR LIVING COSTS

CHAPTER 1

QUALIFYING CONDITIONS

64. Interpretation of Part 6 54
65. Qualifying conditions for the loan for living costs – current system students 55
66. Qualifying conditions for the loan for living costs – old system students 55

CHAPTER 2

MAXIMUM AMOUNTS OF LOANS

67. General 56
68. 2008 cohort students with full entitlement 56
69. Current system students with full entitlement who are not 2008 cohort students 57
70. Type 1 and type 2 teacher training students who are not 2008 cohort students 58
71. Old system students with full entitlement 58
72. Students with reduced entitlement 58

CHAPTER 3

LONG COURSES LOAN

73. Long courses loan 60

CHAPTER 4

MISCELLANEOUS

74. Quarters in respect of which the loan for living costs is payable 60
75. Students falling into more than one category 60
76. Students residing with parents 61
77. Students becoming eligible in the course of an academic year 61
78. Students who are treated as in attendance on a course 62
79. Increases in maximum amount 62
80. Deductions from loans for living costs 62
81. Applying for an additional amount of loan for living costs or long courses loan 63
82. Categories of student 63

PART 7

COLLEGE FEE LOANS

83. General 64
84. Qualifying conditions 64
85. Persons to be treated as eligible students 64
86. Disabled students 64
87. Students becoming eligible during the course of an academic year 65
88 - 90 Availability of college fee loans 65
91. Amount of college fee loan 65
92. Transfers 66

PART 8

INTEREST AND INSOLVENCY

93. Interest 66
94. Insolvency 66

PART 9
FINANCIAL ASSESSMENT

95. Calculation of contribution 67
96. Application of contribution – 2008 cohort students 67
97. Application of contribution – current system students who are not 2008 cohort students 67
98. Application of contribution – old system students 67
99. Order of application – 2008 cohort students 68
100. Order of application – other eligible students 68
101. Minimum level of loan for living costs 68
102. Amount of loan for living costs payable to certain type 1 and type 2 teacher training students 69

PART 10
PAYMENTS
CHAPTER 1
INTERPRETATION OF PART 10

103. Interpretation 69

CHAPTER 2
PAYMENT OF GRANTS FOR FEES

104. Payment of grants for fees 70

CHAPTER 3
PAYMENT OF GRANTS FOR LIVING AND OTHER COSTS

105. Payment of grants for living and other costs 70

CHAPTER 4
PAYMENT OF LOANS

106. General 72
107. Provision of United Kingdom national insurance number 72
108. Information requirements 73
109. Payment of fee loans and fee contribution loans 73
110. Payment of college fee loans 73
111. Payment of loans for living costs and long courses loans 74

CHAPTER 5
OVERPAYMENTS

112. Overpayments of fee support 75
113. Overpayments of college fee loan 75
114. Overpayments of support payable under Part 5 or Part 6 75

PART 11
SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES

115. Eligible distance learning students 76
116. Students becoming eligible during the course of the academic year 78
117. Designated distance learning courses 79
118. Period of eligibility 80

119. Support for distance learning courses 80
120. Amount of support 82
121. Interpretation of regulation 120 83
122. Disabled distance learning students' allowance 84
123. Applications for support 84
124. Declarations provided by academic authorities 85
125. Information 86
126. Transfer of status 86
127. Conversion of status – eligible students transferring to designated distance learning courses 86
128. Conversion of status – eligible distance learning students transferring to designated courses 87
129. Payment of grants for fees 88
130. Payment of grants for books, travel and other expenditure and disabled distance learning students' allowance 88
131. Overpayments 88

PART 12
SUPPORT FOR PART-TIME COURSES

132. Eligible part-time students 89
133. Students becoming eligible during the course of the academic year 91
134. Designated part-time courses 92
135. Period of eligibility 93
136. Assistance for part-time courses 94
137. Amount of assistance 94
138. Interpretation of regulation 137 96
139. Assistance with fees in respect of attendance on a course in Wales, Northern Ireland or Scotland 97
140. Disabled part-time students' allowance 98
141. Applications for support 98
142. Declarations provided by academic authorities 99
143. Information 99
144. Transfer of status 99
145. Conversion of status 100
146. Payment of grants for books, travel and other expenditure and disabled part-time students' allowances 102
147. Payment of grants for fees 103
148. Overpayments 103

PART 13
SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

149. Eligible postgraduate students 104
150. Students becoming eligible in the course of an academic year 106
151. Designated postgraduate courses 106
152. Period of eligibility 107
153. Transfer of status 108
154. Applications for support 109
155. Information 109

156. Amount of grant 109
157. Payment of grant 109
158. Overpayments 109

SCHEDULE 1 — ELIGIBLE STUDENTS 110
PART 1 — Interpretation 110
PART 2 — Categories 113
SCHEDULE 2 — DESIGNATED COURSES 117
SCHEDULE 3 — INFORMATION 118
SCHEDULE 4 — FINANCIAL ASSESSMENT 118
SCHEDULE 5 — AMENDMENT OF THE EDUCATION (STUDENT SUPPORT) REGULATIONS 2008 125

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

PART 1

GENERAL

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the Education (Student Support) (No. 2) Regulations 2008.

(2) Paragraph (1) and this paragraph, regulation 3 and Schedule 5 come into force on the 22nd day after these Regulations are laid before Parliament.

(3) The remaining provisions of these Regulations come into force on 1st September 2008.

(4) Subject to paragraphs (5) and (6), these Regulations apply in relation to England (**b**).

(5) Regulation 94(1) also applies in relation to Wales.

(6) Regulation 94(2) extends to Northern Ireland.

(7) These Regulations, except regulation 3 and Schedule 5, apply in relation to the provision of support to students in relation to an academic year which begins on or after 1st September 2009 whether anything done under these Regulations is done before, on or after 1st September 2009.

Interpretation

2.—(1) In these Regulations—

"the 1962 Act" means the Education Act 1962(**c**);

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

(**b**) In relation to Wales, the functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 were transferred to the Welsh Ministers under section 44 of the Higher Education Act 2004 except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22.

(**c**) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provisions 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. Section 4 was

"the 1998 Act" means the Teaching and Higher Education Act 1998;

"the 1998 Regulations" means the Education (Student Support) Regulations 1998(**a**);

"the 1999 Regulations" means the Education (Student Support) Regulations 1999(**b**);

"the 2000 Regulations" means the Education (Student Support) Regulations 2000(**c**);

"the 2001 Regulations" means the Education (Student Support) Regulations 2001(**d**);

"the 2002 Regulations" means the Education (Student Support) Regulations 2002(**e**);

"the 2003 Regulations" means the Education (Student Support) (No. 2) Regulations 2002(**f**) as amended only by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003(**g**) and the Education (Student Fees and Support) (Switzerland) Regulations 2003(**h**);

"the 2004 Regulations" means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004(**i**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004(**j**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004(**k**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004(**l**), the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005(**m**), the Education (Student Support) (Amendment) Regulations 2005(**n**) and the Education (Student Support) (Amendment) (No. 2) Regulations 2005(**o**);

"the 2005 Regulations" means the Education (Student Support) Regulations 2005(**p**);

"the 2006 Regulations" means the Education (Student Support) Regulations 2006(**q**);

"the 2007 Regulations" means the Education (Student Support) Regulations 2007(**r**);

"the 2008 Regulations" means the Education (Student Support) Regulations 2008(**s**);

"2008 cohort student" means a current system student who begins the current course on or after 1st September 2008 and to whom one of the following sub-paragraphs applies—

(a) the student has not previously undertaken any course which began before 1st September 2008 and which —

  (i) was designated for the purposes of section 22 of the 1998 Act, where the current course began before 1st September 2009; or

  (ii) is a previous course, where the current course begins on or after 1st September 2009;

(b) the student is a type 1 or a type 2 teacher training student;

(c) the course leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect; or

---

amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2. The entire Act was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I. 1998/3237), article 3.

(**a**) S.I. 1998/2003.
(**b**) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.
(**c**) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.
(**d**) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.
(**e**) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.
(**f**) S.I. 2002/3200.
(**g**) S.I. 2003/1065.
(**h**) S.I. 2003/3280.
(**i**) S.I. 2004/161.
(**j**) S.I. 2004/1602.
(**k**) S.I. 2004/2041.
(**l**) S.I. 2004/2598.
(**m**) S.I. 2005/5.
(**n**) S.I. 2005/1341.
(**o**) S.I. 2005/2084.
(**p**) S.I. 2005/52, as amended by S.I. 2005/1341, S.I. 2005/2084, S.I. 2005/3482 and S.I. 2006/955.
(**q**) S.I. 2006/119, as amended by S.I. 2006/955, S.I. 2006/1745 and S.I. 2007/1336.
(**r**) S.I. 2007/176, as amended by S.I. 2007/1336, S.I. 2007/2263 and S.I. 2008/235.
(**s**) S.I. 2008/529 as amended by regulation 3 and Schedule 5 of these Regulations.

(d) where the course began before 1st September 2009, leads to qualification as a landscape architect, landscape designer, landscape manager, town planner or town and country planner;

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

"academic year" means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1st January and before 1st April, on or after 1st April and before 1st July, on or after 1st July and before 1st August or on or after 1st August and on or before 31st December, respectively;

"Academy" means an Academy established by an agreement under section 482 of the Education Act 1996(**a**);

"accelerated course" means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration;

"borrower" means a person to whom a loan has been made;

"bursary year" means an academic year of a course—

(a) in relation to which the student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to that student's income; or

(b) in relation to which the student is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to that student's income;

"college fee loan" means a loan for college fees payable to a qualifying student pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

"compressed degree course" means a course determined in accordance with paragraph (2) to be a compressed degree course;

"compressed degree student" means an eligible student who—

(a) is undertaking a compressed degree course in the United Kingdom (the "course");

(b) either—

(i) began the course on or after 1st September 2006 and is continuing on that course after 31st August 2009; or

(ii) begins the course on or after 1st September 2009; and

(c) either—

(i) is required to be in attendance on the course for part of the academic year for which the student is applying for support; or

(ii) is a disabled student who is not required to be in attendance on the course because the student is unable to attend for a reason which relates to that student's disability;

"contribution" means an eligible student's contribution calculated pursuant to regulation 95 and Schedule 4;

"course for the initial training of teachers" includes such a course leading to a first degree unless otherwise indicated but excludes an employment-based teacher training scheme;

"current course" means the designated course in respect of which a person is applying for support;

"current distance learning course" means the designated distance learning course in respect of which a person is applying for support;

"current part-time course" means the designated part-time course in respect of which a person is applying for support;

(**a**) 1996 c.56; section 482 was amended by the Education Act 2002 (c.32), section 65(1).

"current postgraduate course" means the designated postgraduate course in respect of which a person is applying for support;

"current system student" means an eligible student who—

(a) is not an old system student; and

(b) either—

(i) began the current course on or after 1st September 2006 and is continuing on that course after 31st August 2009; or

(ii) begins the current course on or after 1st September 2009;

"designated course" means a course designated by regulation 6 or by the Secretary of State under regulation 6;

"designated distance learning course" means a course designated by the Secretary of State under regulation 117;

"designated part-time course" means a course designated by regulation 134 or by the Secretary of State under regulation 134;

"designated postgraduate course" means a course designated by regulation 151 or by the Secretary of State under regulation 151;

"disabled distance learning students' allowance" means the grant payable under regulation 122;

"disabled part-time students' allowance" means the grant payable under regulation 140;

"disabled students' allowance" means the grant payable under regulation 40;

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

"EC national" means a national of a Member State of the European Community;

"electronic signature" is so much of anything in electronic form as—

(a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and

(b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

"eligible distance learning student" has the meaning given in regulation 115;

"eligible part-time student" has the meaning given in regulation 132;

"eligible postgraduate student" has the meaning given in regulation 149;

"eligible student" has the meaning given in paragraph (3);

"employment-based teacher training scheme" means—

(a) a scheme established by the Secretary of State whereby a person may undertake initial teacher training in order to obtain qualified teacher status while being employed to teach at a school or other educational institution except a pupil referral unit; or

(b) a scheme established by the National Assembly for Wales or the Welsh Ministers whereby persons who are or who have been employed in a school or other educational institution except a pupil referral unit may become qualified teachers;

"end-on course" means—

(a) a full-time first degree course (other than a first degree course for the initial training of teachers) beginning before 1st September 2009 which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time course mentioned in paragraph 2 or 3 of Schedule 2 for which the student received or was

---

(**a**) OJ L158, 30.4.2004, p77-123

entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007 or 2008 Regulations;

(b) a full-time honours degree course beginning on or after 1st September 2006 but before 1st September 2009 which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a full-time foundation degree course and for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007 or 2008 Regulations;

(c) a course for the initial training of teachers beginning before 1st September 2006 the duration of which does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent) which, disregarding any intervening vacation, a student begins immediately after ceasing to attend a first degree course for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003, 2004 or 2005 Regulations;

(d) a full-time first degree course beginning on or after 1st September 2009, (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins after ceasing to attend a lower level full-time or part-time higher education course, or undertake a compressed degree course or a designated distance learning course.

"equivalent or lower qualification" means a qualification determined in accordance with paragraph (5) to be an equivalent or lower qualification;

"Erasmus year" means an academic year of a course during which a student is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS (**a**) and where the student's course is a course referred to in regulation 6 (1) (e) and all the periods of study during the academic year are at an institution outside the United Kingdom;

"European Community" means the territory comprised by the Member States of the European Community as constituted from time to time;

"fee contribution loan" means a loan for fees made to an old system student pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

"fee loan" means a loan for fees made to a current system student pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

"fees" has the meaning given in section 41(1) of the Higher Education Act 2004(**b**) except in references to college fees;

"fee support" means a grant for fees pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act, a fee contribution loan or a fee loan;

"flexible postgraduate course for the initial training of teachers" means a graduate-entry or postgraduate-level course for the initial training of teachers, the length and pattern of which is determined by reference to the eligible student's experience and training requirements and which has been approved by the Training and Development Agency for Schools(**c**);

"former Metropolitan Police District" means—

(a) Greater London, excluding the City of London, the Inner Temple and the Middle Temple;

(b) in the county of Essex, in the district of Epping Forest—

the area of the former urban district of Chigwell,

the parish of Waltham Abbey;

(**a**) ERASMUS is part of the European Community action programme SOCRATES; OJ No L28, 3.2.2000, p1.
(**b**) 2004 c. 8, to which there have been amendments not relevant to these Regulations.
(**c**) This body was originally established under section 1 of the Education Act 1994 (c. 30) as the Teacher Training Agency. By virtue of section 74 of the Education Act 2005 (c. 18), it continues in existence but is known instead as the Training and Development Agency for Schools.

(c) in the county of Hertfordshire—

in the borough of Broxbourne, the area of the former urban district of Cheshunt,

the district of Hertsmere,

in the district of Welwyn Hatfield, the parish of Northaw; and

(d) in the county of Surrey—

in the borough of Elmbridge, the area of the former urban district of Esher,

the boroughs of Epsom and Ewell and Spelthorne,

in the district of Reigate and Banstead, the area of the former urban district of Banstead;

"gap year student" has the meaning given in paragraph (6);

"grant for living and other costs" means a grant payable under Part 5;

"healthcare bursary" means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968(**a**) or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(**b**);

"higher education course" means a course referred to in Schedule 2 or a postgraduate or other course the standard of which is higher than the standard of a first degree course;

"household income" has the meaning given in Schedule 4;

"information" includes documents;

"Institute" means the University of London Institute in Paris;

"intensive course" means an accelerated course or a compressed degree course;

"Islands" means the Channel Islands and the Isle of Man;

"loan", except where otherwise indicated, means a loan pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act, including the interest accrued on the loan and any penalties or charges incurred in connection with it;

"loan for living costs" means a loan for living costs pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

"long courses loan" means a long courses loan pursuant to regulation 73;

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

"old award" is an award within the meaning of the Education (Mandatory Awards) Regulations 2003(**c**);

"old flexible postgraduate course for the initial training of teachers" means a flexible postgraduate course for the initial training of teachers which a student started to attend before 1st September 2008;

"old system student" means an eligible student who—

(a) began the current course before 1st September 2006 and is continuing on that course after 31st August 2009;

(**a**) 1968 c. 46; section 63 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the National Health Service Reorganisation Act 1973 (c. 32), Schedules 4 and 5, the National Health Service Act 1977 (c. 49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedules 16 and 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, the Health Authorities Act 1995 (c. 17), Schedule 1, S.I. 1996/1008, the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, the Health Act 1999 (c. 8), Schedule 4, the Health and Social Care Act 2001 (c. 15), Schedule 5, the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, S.I. 2002/2202, article 4, S.I. 2002/2469, Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, S.I. 2004/288, article 7, the Children Act 2004 (c. 31), section 55, S.I. 2004/957, the Schedule, the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, S.I.2006/1056 and S.I. 2007/961, the Schedule.

(**b**) S.I. 1972/1265 (N.I. 14), to which there have been amendments not relevant to these Regulations.

(**c**) S.I. 2003/1994, amended by S.I.s 2004/1038, 2004/1792, 2005/2083, 2005/3137, 2006/930 and 2007/1629.

(b) is a gap year student in relation to the current course;

(c) began the current course on or after 1st September 2006 where that course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of "end-on course" in this regulation) following on from—

(i) a course that the student began before 1st September 2006; or

(ii) a course that the student began before 1st September 2007 and in relation to which the student was a gap year student; or

(d) began the current course on or after 1st September 2006 having had their status as an eligible student transferred to that course as a result of one or more transfers of that status by the Secretary of State pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act from a designated course in connection with which the Secretary of State determined the student to be an eligible student and which the student began—

(i) before 1st September 2006; or

(ii) before 1st September 2007 and in relation to which the student was a gap year student;

"ordinary duration" means, in relation to a designated course, the number of academic years that a standard student would take to complete the designated course excluding any academic years of the course that are bursary years or Erasmus years;

"period of eligibility" has the meaning given respectively in regulation 7 in relation to an eligible student, in regulation 118 in relation to an eligible distance learning student, in regulation 135 in relation to an eligible part-time student and in regulation 152 in relation to an eligible postgraduate student;

"periods of work experience" means—

(a) periods of industrial, professional or commercial experience associated with full-time study at an institution, but at a place outside that institution;

(b) periods during which a student is employed and residing in a country whose language is one that the student is studying for that student's course (provided that the period of residence in that country is a requirement of that student's course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

"person with leave to enter or remain" means a person—

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

(b) who has been granted leave to enter or remain accordingly;

(c) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002(**a**)); and

(d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted leave to enter or remain;

"preliminary course" means a course mentioned in paragraph 2 or 3 of Schedule 2 that is taken before a full-time degree course (other than a first degree course for the initial training of teachers) or a foundation degree course that is taken before a full-time honours degree course, as the case may be;

"previous course" has the meaning given in regulation 13;

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

"private institution" means an institution which is not publicly funded;

"public funds" means moneys provided by Parliament or by a government authority outside the United Kingdom;

"publicly funded", unless otherwise indicated, means maintained or assisted by recurrent grants out of public funds and related expressions are to be interpreted accordingly;

"qualified teacher" has the meaning given in section 132(1) of the Education Act 2002(**a**);

"qualifying course" means a full-time designated course which is provided by the University of Oxford or the University of Cambridge and—

(a) leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect;

(b) where it began before 1st September 2009, leads to qualification as a landscape architect, landscape designer, landscape manager, town planner or town and country planner; or

(c) any academic year of which is a bursary year;

"qualifying student" means a person who satisfies the criteria in regulation 84;

"qualifying year of study" means an academic year of a designated course—

(a) in respect of which the student qualified for fee support (even if the amount was nil);

(b) that was a bursary year; or

(c) in respect of which the student would have qualified for fee support (even if the amount would have been nil) if the student had been an eligible student or the current course had been designated at the beginning of that year;

"quarter" in relation to an academic year means a period in that year—

(a) beginning on 1st January and ending on 31st March;

(b) beginning on 1st April and ending on 30th June;

(c) beginning on 1st July and ending on 31st August; or

(d) beginning on 1st September and ending on 31st December;

"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(**b**) as extended by the Protocol thereto which entered into force on 4th October 1967(**c**);

"Research Council" means any of the following research councils—

(a) Arts and Humanities Research Council,

(b) Biotechnology and Biological Sciences Research Council,

(c) Economic and Social Research Council,

(d) Engineering and Physical Sciences Research Council,

(e) Medical Research Council,

(f) Natural Environment Research Council,

(g) Particle Physics and Astronomy Research Council;

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

"sandwich course" has the meaning given in paragraph (10);

(**a**) 2002 c. 32.
(**b**) Cmnd. 9171.
(**c**) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Finance Policy Division, Department for Innovation, Universities and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).

"Scottish healthcare allowance" means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(**a**) granted in respect of a person on a course leading to a qualification in a healthcare profession other than as a medical doctor or dentist;

"specified designated course" has the meaning given in paragraph (11);

"standard academic year", unless otherwise indicated, means an academic year of a designated course (other than an academic year that is a bursary year or an Erasmus year) that would be taken (in whole or in part) by a person who does not repeat any part of the course after 1st September 2006 and who enters the course at the same point as the eligible student;

"standard student" is a student who is to be taken—

(a) to have begun the designated course on the same date as the eligible student in question;

(b) not to be excused any part of the course;

(c) not to repeat any part of the course; and

(d) not to be absent from the course other than during vacations;

"statutory award" means any award bestowed, grant paid or other support provided by virtue of the 1998 Act or the 1962 Act, or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

"student loans legislation" means the Education (Student Loans) Act 1990(**b**), the Education (Student Loans) (Northern Ireland) Order 1990(**c**), the Education (Scotland) Act 1980 and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998(**d**) and regulations made under that Order or the 1998 Act and regulations made under that Act;

"support" means financial support by way of grant or loan made by the Secretary of State pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

"transitional award" means an award made under the Education (Mandatory Awards) Regulations 1998(**e**) other than an old award;

"Turkish worker" means a Turkish national who—

(a) is ordinarily resident in the United Kingdom and Islands; and

(b) is, or has been, lawfully employed in the United Kingdom;

"type 1 teacher training student" means a current system student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which the student is applying for support are in aggregate at least 6 weeks but less than 10 weeks;

"type 2 teacher training student" means a current system student on a course for the initial training of teachers (other than a course for a first degree) whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which the student is applying for support are in aggregate 10 weeks or more; and

"type 3 teacher training student" means a current system student on a course for a first degree for the initial training of teachers whose periods of full-time attendance (including attendance for the purpose of teaching practice) in the academic year in respect of which the student is applying for support are in aggregate at least 6 weeks but less than 10 weeks;

(2) The Secretary of State may determine that a course is a compressed degree course if, in the opinion of the Secretary of State, that course is—

(**a**) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2). Section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**b**) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.

(**c**) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6 and revoked, with savings, by SR (NI) 1998 No 306.

(**d**) S.I. 1998/1760 (N.I. 14), to which there have been amendments not relevant to these Regulations.

(**e**) S.I. 1998/1166, amended by S.I. 1998/1972 and revoked with savings by S.I. 1999/1494.

(a) a course for a first degree (other than a foundation degree);

(b) a full-time course designated under regulation 6(1); and

(c) of two academic years' duration.

(3) Subject to paragraph (4), "eligible student" has the meaning given in regulation 5.

(4) For the purposes of the college fee loan, references to an eligible student in regulations 7, 8, 9 and 94 and Schedule 3 include a person treated as an eligible student by virtue of regulation 85.

(5) The Secretary of State may determine that a qualification is an equivalent or lower qualification if—

(a) an eligible student holds a higher education qualification from any institution whether or not in the United Kingdom; and

(b) the qualification referred to in sub-paragraph (a) is of an academic level which is equivalent to or higher than a qualification to which the current course leads.

(6) In these Regulations, a person is a "gap year student" in relation to a course provided by or on behalf of an institution that was publicly funded as at 1st August 2005 if the person meets the conditions in paragraph (7) or (9).

(7) The conditions are—

(a) the person had on or before 1st August 2005 received an offer, whether conditional on obtaining specified qualifications or not, of a place on the current course or a similar course; and

(b) the first academic year of the current course began on or after 1st September 2006 but before 1st September 2007.

(8) In paragraph (7), a course (the "original course") is similar to the current course if—

(a) it appears to the academic authority of the institution providing the current course that the subject-matter of the course is in whole or in part the same as the subject-matter of the original course; and

(b) except where the original course is no longer being provided, the current course is provided by the institution which was to have provided the original course.

(9) The conditions are—

(a) the person had received an offer of a place on a designated course (whether or not at the same institution as the current course) the first academic year of which began before 1st September 2006;

(b) the person was unable to take up the offer because a specified qualification or grade was not awarded to them;

(c) the person appealed against the decision not to award them the qualification or grade;

(d) the appeal was allowed after the last date on which they could have taken up the offer;

(e) as a result, the person was offered a place on the current course; and

(f) the first academic year of the current course began on or after 1st September 2006 but before 1st September 2007.

(10) In these Regulations—

(a) a course is a "sandwich course" if—

(i) it is not a course for the initial training of teachers;

(ii) it consists of alternate periods of full-time study in an institution and periods of work experience; and

(iii) taking the course as a whole, the student attends the periods of full-time study for an average of not less than 18 weeks in each year;

(b) in calculating the student's attendance for the purposes of sub-paragraph (a), the course is to be treated as beginning with the first period of full-time study and ending with the last such period; and

(c) for the purposes of sub-paragraph (a), where periods of full-time study and work experience alternate within any week of the course, the days of full-time study are aggregated with each other and with any weeks of full-time study in determining the number of weeks of full-time study in each year.

(11) In these Regulations, the "specified designated course" means the current course subject to paragraphs (12) and (13).

(12) Where the student's status as an eligible student has been transferred to the current course as a result of one or more transfers of that status by the Secretary of State from a course (the "initial course") in connection with which the Secretary of State determined the student to be an eligible student pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act, the specified designated course is the initial course.

(13) Where the current course is an end-on course, the specified designated course is the course in relation to which the current course is an end-on course (the "preceding course"). Where the preceding course is itself an end-on course, the specified designated course is the course in relation to which the preceding course is an end-on course.

Amendment of the Education (Student Support) Regulations 2008

3. The 2008 Regulations are amended in accordance with Schedule 5.

Revocation, savings and transitional provisions

4.—(1) Subject to paragraphs (2) and (3), the following regulations are revoked on 1st September 2009–

(a) the 2008 Regulations;

(b) the Education (Student Support) (Amendment) Regulations 2008(**a**).

(2) Paragraph (3) of regulation 3 of the 2008 Regulations continues to apply.

(3) The 2008 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1st September 2008 but before 1st September 2009.

(4) Regulation 93 applies to loans with effect from 1st September 2009.

(5) Despite any other provision in these Regulations where a person—

(a) attends a course in respect of which a transitional award was made; or

(b) had received no award under the 1962 Act in respect of the course but a transitional award would have been bestowed had the person applied for an award under the 1962 Act and the person's resources had not exceeded the person's requirements,

the person is an old system student for the purposes of Parts 4 and 5 in connection with the course, or in connection with any subsequent course to which the award (either bestowed or which would have been bestowed under the 1962 Act) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (6) applies the person qualifies for support by way of loan for living costs under Part 6 only if the person is an eligible student under these Regulations and if the person satisfies the qualifying conditions for an old system student in Part 6.

(6) Despite any other provision in these Regulations, where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations the person is an old system student for the purposes of Part 6 in connection with the course, or any subsequent designated course which (disregarding any intervening vacation) the person begins immediately after ceasing that course, but unless paragraph (5) applies the person qualifies for fee support under Chapters 4 and 5 of Part 4 and grants for living and other costs under Part 5 only if the person is an eligible student under these Regulations and if the person satisfies the relevant qualifying conditions for an old system student in Parts 4 and 5.

(**a**) S.I.2008/235.

PART 2

ELIGIBILITY

Eligible students

5.—(1) An eligible student qualifies for support in connection with a designated course subject to and in accordance with these Regulations.

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

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

(a) an old award has been bestowed on A in respect of A's attendance on the course;

(b) A is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;

(c) there has been bestowed on, or paid to, A in connection with the course—

(i) a healthcare bursary the amount of which is not calculated by reference to A's income; or

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(**a**);

(d) A is in breach of any obligation to repay any loan;

(e) A has reached the age of 18 and has not ratified any agreement for a loan made with A when A was under the age of 18; or

(f) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support.

(4) For the purposes of paragraphs (3)(d) and (3)(e), "loan" means a loan made under any provision of the student loans legislation.

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

(a) before 25th September 1991; and

(b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.

(6) An eligible student in respect of whom the first academic year of the specified designated course begins on or after 1st September 2000 does not, at any one time, qualify for support for—

(a) more than one designated course;

(b) a designated course and a designated distance learning course;

(c) a designated course and a designated part-time course;

(d) a designated course and a designated postgraduate course.

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

(a) paragraphs (2) and (3) do not apply to that person and

(b) that person is an eligible student for the purposes of these Regulations.

(8) The conditions are—

(a) the person qualified as an eligible student in connection with an earlier academic year of the current course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(**a**) S.S.I. 2007/151, amended by S.S.I. 2007/503.

(b) the person was not ordinarily resident in Wales on the first day of the first academic year of the current course; and

(c) the person's status as an eligible student has not terminated.

(9) The conditions are—

(a) the current course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of "end-on course" in regulation 2) which the person begins on or after 1st September 2006;

(b) the person qualified as an eligible student in connection with the course in relation to which the current course is an end-on course;

(c) the period of eligibility in respect of the course referred to in sub-paragraph (b) ceased only on the grounds that the student had completed the course; and

(d) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (b).

(10) The conditions are—

(a) the Secretary of State has previously determined that the person is—

(i) an eligible part-time student in connection with a designated part-time course;

(ii) an eligible distance learning student in connection with a designated distance learning course; or

(iii) an eligible student in connection with a designated course other than the current course;

(b) the person's status as an eligible part-time student, as an eligible distance learning student or as an eligible student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;

(c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and

(d) the person's status as an eligible student has not terminated.

(11) Where—

(a) the Secretary of State determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was—

(i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which A's status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A's status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of A's spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(12) Where—

(a) the Secretary of State determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was—

(i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which A's status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A's status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

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

Designated courses

6.—(1) Subject to paragraphs (2), (3), (4) and (5), a course is a designated course for the purposes of section 22(1) of the 1998 Act and regulation 5 if it is—

(a) mentioned in Schedule 2;

(b) one of the following—

(i) a full-time course;

(ii) a sandwich course; or

(iii) a part-time course for the initial training of teachers;

(c) not a designated distance learning course;

(d) of at least—

(i) one academic year's duration; or

(ii) six weeks' duration in the case of a flexible postgraduate course for the initial training of teachers; and

(e) wholly provided by a publicly funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) A course falling within paragraph 7 or 8 of Schedule 2 is not a designated course where the governing body of a maintained school or Academy has arranged for the provision of such a course to a pupil of the school or Academy.

(3) A course that is taken as part of an employment-based teacher training scheme is not a designated course.

(4) A first degree course is not a designated course where—

(a) it leads to the award of a professional qualification;

(b) a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification; and

(c) the current course begins on or after 1st September 2009.

(5) Paragraph (1)(c) does not apply where the person applying for support in connection with the course is—

(a) a disabled student; and

(b) undertaking that course in the United Kingdom but not in attendance because the person is unable to attend for a reason which relates to that person's disability.

(6) For the purposes of paragraph (1)—

(a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;

(b) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and

(c) an institution is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(**a**).

(7) Subject to paragraph (4), a course to which this paragraph applies is considered to be a single course for a first degree or for an equivalent qualification even if—

(a) the course leads to another degree or qualification being conferred before the degree or equivalent qualification; and

(b) part of the course is optional.

(8) Paragraph (7) applies to a course the standard of which is not higher than a first degree which leads to a qualification as a medical doctor, dentist, veterinary surgeon, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner.

(9) For the purposes of section 22 of the 1998 Act and regulation 5(1) the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

7.—(1) A student's status as an eligible student is retained in connection with a designated course until the status terminates in accordance with this regulation or regulation 5.

(2) The period for which an eligible student retains that status is the "period of eligibility".

(3) Subject to the following paragraphs and regulation 5, the period of eligibility terminates at the end of the academic year in which the student completes the designated course.

(4) The period of eligibility terminates when the eligible student ("A")—

(a) withdraws from A's designated course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert A's status as an eligible student under regulation 8,127 or 145; or

(b) abandons or is expelled from A's designated course.

(5) The Secretary of State may terminate the period of eligibility where A has shown by A's conduct that A is unfitted to receive support.

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

(a) terminate the period of eligibility;

(b) determine that the student no longer qualifies for any particular support or particular amount of support;

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

(c) treat any support paid to the student as an overpayment which may be recovered under Chapter 5 of Part 10.

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

Transfer of status

8.—(1) Where an eligible student "A" transfers to another course, the Secretary of State must transfer A's status as an eligible student to that course where—

(a) he receives a request from the eligible student to do so;

(b) he is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) on the recommendation of the academic authority A ceases one course and starts to—

(i) attend another designated course at the institution;

(ii) undertake another compressed degree course at the institution; or

(iii) undertake a compressed degree course at the institution;

(b) A starts to—

(i) attend a designated course at another institution; or

(ii) undertake a compressed degree course with another institution;

(c) after starting a course for the Certificate in Education, A is, on or before the completion of that course, admitted to a designated course for the degree (including an honours degree) of Bachelor of Education either at the same institution or at another institution;

(d) after starting a course for the degree (other than an honours degree) of Bachelor of Education, A is, on or before the completion of that course, admitted to a designated course for the honours degree of Bachelor of Education either at the same institution or at another institution; or

(e) after starting a course for a first degree (other than an honours degree) A is, before the completion of that course, admitted to a designated course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), where A transfers under paragraph (1), A is entitled to receive in connection with the academic year of the course to which A transfers the remainder of the support assessed by the Secretary of State in respect of the academic year of the course from which A transfers.

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

(5) Where A transfers under paragraph (1) after the Secretary of State has assessed A's support in connection with the academic year of the course from which A is transferring but before A completes that year, A may not, in connection with the academic year of the course to which A transfers, apply for another grant or loan of a kind that A has already applied for under these Regulations in connection with the academic year of the course from which A is transferring unless otherwise provided.

PART 3

APPLYING FOR SUPPORT, PROVISION OF INFORMATION AND LOAN CONTRACTS

Applications for support

9.—(1) A person (the "applicant") must apply for support in connection with each academic year of a designated course by completing and submitting to the Secretary of State an application in such form and accompanied by such documentation as the Secretary of State may require.

(2) The Secretary of State may take such steps and make such inquiries as the Secretary of State considers necessary to determine whether the applicant is an eligible student, whether the applicant qualifies for support and the amount of support payable, if any.

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

Time limits

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

(2) The general rule does not apply where—

(a) one of the events listed in regulation 18 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of nine months beginning with the day on which the relevant event occurred;

(b) the applicant is making a separate application for a fee loan, a fee contribution loan, a loan for living costs or a college fee loan or is applying for an additional amount of fee loan under regulation 24(4) or (10), an additional amount of fee contribution loan under regulation 35(5), an additional amount of loan for living costs under regulation 81(3) or an additional amount of college fee loan under regulation 91 in which case the application must reach the Secretary of State not later than one month before the end of the academic year to which the application relates;

(c) the applicant is applying to borrow an additional amount of fee contribution loan under regulation 35(3), an additional amount of loan for living costs or an additional amount of long courses loan under regulation 81(1), in which case the application must reach the Secretary of State not later than one month before the end of the academic year to which the application relates or within a period of one month beginning with the day on which the applicant receives notice of the increased maximum amount, whichever is the later;

(d) the applicant is applying for the disabled students' allowance, in which case the application must reach the Secretary of State as soon as is reasonably practicable; or

(e) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as the Secretary of State specifies.

Information

11. Schedule 3 deals with the provision of information.

Requirement to enter into a contract for a loan

12. To receive a loan a student must enter into a contract with the Secretary of State.

PART 4

FEE SUPPORT

CHAPTER 1

GENERAL

Previous course

13.—(1) Subject to the exceptions in paragraphs (4), (5) and (6), a "previous course" is–

(a) where the current course began before 1st September 2009, any full-time higher education course, part-time course for the initial training of teachers or a course designated under regulation 6(9), which the student attended or, in the case of a compressed degree course or a designated distance learning course, undertook before the current course and which meets one or both of the conditions in paragraph (2).

(b) where the current course begins on or after 1st September 2009–

(i) a lower level qualification achieved following a full-time or part-time higher education course, a part-time course for the initial training of teachers or a course designated under regulation 6(9), which the student attended or, in the case of a compressed degree course or a designated distance learning course, undertook before the current course; or

(ii) a full-time higher education course, part-time course for the initial training of teachers or a course designated under regulation 6(9), which the student attended, or in the case of a compressed degree course or a designated distance learning course, undertook before the current course where the student studied but did not achieve a qualification and which meets one or both of the conditions in paragraph (3).

(2) The conditions are—

(a) the course was provided by an institution in the United Kingdom which was publicly funded for some or all of the academic years during which the student attended or undertook the course; or

(b) any scholarship, exhibition, bursary, grant, allowance or award of any description which was paid in respect of the student's attending or, in the case of a compressed degree course or a designated distance learning course, undertaking the course to defray fees was from public funds or funds attributable to public funds.

(3) The conditions are—

(a) the course was provided at a publicly funded institution whether or not in the United Kingdom for some or all of the academic years during which the student attended or undertook the course; or

(b) any scholarship, exhibition, bursary, grant, allowance or award of any description which was paid in respect of the student's attending or, in the case of a compressed degree course or a designated distance learning course, undertaking the course to defray fees was from public funds or funds attributable to public funds.

(4) A course which would otherwise be a previous course will not be treated as such if—

(a) the current course is a course for the initial training of teachers;

(b) the duration of the current course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and

(c) the student is not a qualified teacher.

(5) A course for the Certificate in Education which would otherwise be a previous course will not be treated as such if—

(a) the current course is a course for the degree (including an honours degree) of Bachelor of Education; and

(b) the student transferred to the current course from the course for the Certificate in Education before the completion of that course or began the current course on completion of the course for the Certificate in Education.

(6) A course for the degree (other than an honours degree) of Bachelor of Education will not be treated as a previous course if—

(a) the current course is a course for the honours degree of Bachelor of Education; and

(b) the student transferred to the current course from the course for the degree (other than an honours degree) of Bachelor of Education before the completion of that course or began the current course on completion of the course for the degree (other than an honours degree) of Bachelor of Education.

(7) Subject to paragraphs (8), (9) and (10), for the purpose of determining PC in the formulae in regulations 22 and 29—

(a) each academic year that the student completed on a previous course is counted; and

(b) an academic year of a previous course that the student began or ceased to attend part of the way through the year is counted as one academic year on a previous course.

(8) For the purpose of determining PC in the formulae in regulations 22 and 29, an academic year of a previous course is not to be counted as a year spent on a previous course if—

(a) the student did not qualify for fee support for that year other than because the academic year was a bursary year or an Erasmus year; and

(b) the student qualified for fee support for some but not all of the other academic years of that previous course.

(9) For the purpose of determining PC in the formulae in regulations 22 and 29, an academic year of a previous course is not to be counted as a year spent on a previous course if it was a year of repeat study that the student was taking for compelling personal reasons or a year in relation to which the student qualified for fee support because the student had failed to complete a previous course for compelling personal reasons.

(10) For the purpose of determining PC in the formulae in regulations 22 and 29, where a student ("A") transfers from an academic year of one designated course to an academic year of another designated course before the Secretary of State considers that A has completed the year from which A is transferring, the time spent by A during the academic year in which the transfer takes place on the course from which A is transferring is not counted as a year spent on a previous course.

(11) A student ("A") who undertook a previous course but was not in attendance because A was unable to attend for a reason which related to A's disability is only treated as having been in attendance on the previous course in respect of periods of study beginning on or after 1st September 2006.

Miscellaneous

14.—(1)Where paragraph (2) applies, an eligible student is not prevented from qualifying for fee support under this Part because—

(a) the student has an honours degree from an institution in the United Kingdom, where the student began the current course before 1st September 2009; or

(b) the current course leads to an equivalent or lower qualification, where the student begins the course on or after 1st September 2009.

(2) This paragraph applies where—

(a) the current course is a course for the initial training of teachers;

(b) the duration of the current course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and

(c) the student is not a qualified teacher.

(3) Where the current course is considered to be a single course because of regulation 6(7) and (8) and it leads to a honours degree from an institution in the United Kingdom being conferred on the eligible student before the final degree or equivalent qualification, the eligible student is not prevented from qualifying for fee support under this Part in respect of any part of the single course by virtue of having that honours degree.

(4) For the purposes of calculating the amount of fee support, an institution that provides courses designated by regulation 4 of the Education (Student Support) (Dance and Drama) Regulations 1999(**a**) is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(**b**).

(5) Where an institution allows an eligible student to study the content of one standard academic year of the designated course over two or more academic years, for the purpose of determining whether the student qualifies for fee support for those years, the last of such years of study is to be treated as a standard academic year and the preceding years of that kind are to be treated as years of repeat study other than for compelling personal reasons.

CHAPTER 2

TYPES OF FEE SUPPORT AVAILABLE

Current system students

15. A current system student ("A") qualifies for a fee loan in respect of the fees payable by A in connection with A's attendance on a designated course in accordance with Chapter 3 of this Part.

Old system students

16.—(1) An old system student ("A") qualifies for a grant for fees in respect of the fees payable by A in connection with A's attendance on a designated course in accordance with Chapter 4 of this Part.

(2) A qualifies for a fee contribution loan in respect of the fees payable by A in connection with A's attendance on a designated course in accordance with Chapter 5 of this Part.

Students becoming eligible in the course of an academic year

17. Where one of the events listed in regulation 18 occurs in the course of an academic year—

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

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

Events

18. The events are—

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

(b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;

(c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;

(**a**) S.I. 1999/2263, amended by S.I. 2001/2893.
(**b**) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;

(e) the student acquires the right of permanent residence;

(f) the student becomes the child of a Turkish worker;

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

(h) the student becomes the child of a Swiss national.

Students to be treated as in attendance on a course

19.—(1)A student to whom this regulation applies is treated as if the student were in attendance on the designated course for the purpose of qualifying for fee support.

(2) This regulation applies to—

(a) a compressed degree student; or

(b) a disabled student who—

(i) is not a compressed degree student; and

(ii) is undertaking a designated course in the United Kingdom but is not in attendance because the student is unable to attend for a reason which relates to the student's disability.

CHAPTER 3

FEE LOANS FOR CURRENT SYSTEM STUDENTS

Availability of fee loans to current system students - general

20.—(1) A current system student does not qualify for a fee loan in respect of a designated course if—

(a) the designated course leads to an equivalent or lower qualification, the exemption in regulation 14(1), (2) or (3) does not apply and the student begins the course on or after 1st September 2009,

(b) the student has an honours degree from an institution in the United Kingdom, the exemption in regulation 14(1), (2) or (3) does not apply and the student began the course before 1st September 2009; or

(c) the designated course is an old flexible postgraduate course for the initial training of teachers.

(2) A current system student does not qualify for a fee loan in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(3) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the "standard entitlement".

(4) The standard entitlement is calculated in accordance with regulation 21, 22 or 23.

(5) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must allocate a fee loan from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a fee loan has been allocated to each standard academic year of the course.

(6) A current system student qualifies for a fee loan in respect of a standard academic year of the designated course if the Secretary of State allocates a fee loan to that year when assessing the application for support for that year.

(7) In addition to the standard entitlement, a current system student who falls within regulation 22 qualifies for a fee loan in respect of the first academic year that the student takes of the

designated course that is not a bursary year or an Erasmus year if the student failed to complete the most recent previous course because of compelling personal reasons.

(8) Where a current system student qualifies for a fee loan under paragraph (7), the Secretary of State must not allocate a fee loan under paragraph (5) to the first academic year that the student takes of the designated course that is not a bursary year or an Erasmus year.

(9) In addition to the standard entitlement, if the Secretary of State determines that the student is repeating an academic year of the designated course because of compelling personal reasons, a current system student qualifies for a fee loan in respect of the year of repeat study provided that the academic year that the student is repeating was a qualifying year of study and the year of repeat study is not a bursary year.

(10) A current system student qualifies for a fee loan in respect of an academic year of a designated course that is a year of repeat study which the student is taking other than for compelling personal reasons if—

(a) the academic year which the student is repeating was a qualifying year of study;

(b) the academic year of repeat study is not a bursary year; and

(c) when the academic year of repeat study is added to the number of any other academic years of repeat study that the student has already taken on the current course other than for compelling personal reasons, it does not exceed the number of additional years of support.

(11) In this regulation, the "number of additional years of support" is the number of years which make up the standard entitlement less the number of standard academic years (plus one where the student qualifies for a fee loan under paragraph (7)).

(12) The amount of the fee loan in respect of an academic year is determined in accordance with regulation 24 and may be nil.

Standard entitlement of current system students who have not studied on a previous course

21. The standard entitlement of a current system student who has not studied on a previous course is calculated as follows—

$$OD + 1$$

where

OD is the number of academic years that make up the ordinary duration of the course.

Standard entitlement of current system students who have transferred from or otherwise studied on a previous course

22.—(1) The standard entitlement of a current system student who has studied on a previous course and who does not fall within regulation 23 is calculated as follows—

$$\left(OD + 1\right) - PC$$

where

OD is the number of academic years that make up the ordinary duration of the course

PC is the number of academic years that the student has spent on previous courses.

(2) For the purposes of this regulation, a "current system student who has studied on a previous course" includes a current system student whose status as an eligible student has been transferred to the current course as a result of one or more transfers of that status by the Secretary of State pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act from a designated course which—

(a) is a previous course; and

(b) the student began on or after 1st September 2006.

Standard entitlement of current system students on end-on courses and certain degree courses

23.—(1) Where the current course began before 1st September 2009, this regulation applies to—

(a) a current system student who is on an end-on course of the kind described in paragraph (a) or (b) of the definition of "end-on course" in regulation 2;

(b) a current system student who—

(i) has completed a full-time course mentioned in paragraph 2 or 3 of Schedule 2;

(ii) is on a full-time first degree course (other than a first degree course for the initial training of teachers) that the student did not begin immediately after the course referred to in paragraph (i); and

(iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the current course;

(c) a current system student who—

(i) has completed a full-time foundation degree course;

(ii) is on a full-time honours degree course that the student did not begin immediately after the course referred to in paragraph (i); and

(iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the current course.

(2) Where the current course begins on or after 1st September 2009, this regulation applies to–

(a) a current system student who is on an end-on course of the kind described in paragraph (d) of the definition of "end-on course" in regulation 2;

(b) a current system student who—

(i) has completed a full-time, part-time, full-time distance learning or compressed degree course and achieved a lower level qualification;

(ii) is on a full-time first degree course (other than a first degree course for the initial training of teachers) that the student did not begin immediately after the course referred to in paragraph (i); and

(iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the current course.

(3) Regulations 21 and 22 do not apply to students to whom this regulation applies.

(4) The standard entitlement of a student to whom paragraph (1) applies is calculated as follows—

$$\left(D + X\right) - \Pr C$$

where

D is the greater of 3 and the number of academic years that make up the ordinary duration of the course

X is 1 where the ordinary duration of the preliminary course was less than three years and 2 where the ordinary duration of the preliminary course was three years

PrC is the number of academic years that the student spent on the preliminary course excluding any years of repeat study for compelling personal reasons.

(5) The standard entitlement of a student to whom paragraph (2) applies is calculated as follows–-

$$\left(D + X\right) - \Pr C$$

where

D is the greater of 3 and the number of academic years that make up the ordinary duration of the course

X is –

1 where the ordinary duration of the preliminary course was less than three years,

2 where the ordinary duration of the preliminary course was three years,

3 where the ordinary duration of the preliminary course was four years,

4 where the ordinary duration of the preliminary course was five years, and

5 where the ordinary duration of the preliminary course was six years

PrC is the number of academic years that the student spent on the preliminary course excluding any years of repeat study for compelling personal reasons.

Amount of the fee loan

24.—(1) Unless one of the cases set out in paragraph (3) applies, the amount of a fee loan in respect of an academic year of a designated course must not exceed the lesser of—

(a) £3,225; and

(b) the fees payable by the student in connection with that year.

(2) In the cases set out in paragraph (3), the amount of a fee loan in respect of an academic year of a designated course must not exceed the lesser of—

(a) £1,610; and

(b) the fees payable by the student in connection with that year.

(3) The cases are—

(a) the final academic year of a designated course where that academic year is normally required to be completed after less than 15 weeks' attendance;

(b) in respect of a sandwich course, an academic year—

(i) during which any periods of full-time study are in aggregate less than 10 weeks; or

(ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full-time study at the institution (disregarding intervening vacations) exceeds 30 weeks;

(c) in respect of a course for the initial training of teachers, an academic year during which any periods of full-time study are in aggregate less than 10 weeks;

(d) in respect of a course provided in conjunction with an overseas institution, an academic year—

(i) during which any periods of full-time study at the institution in the United Kingdom are in aggregate less than 10 weeks; or

(ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full-time study at the institution in the United Kingdom (disregarding intervening vacations) exceeds 30 weeks.

(4) If a student's status as an eligible student is transferred from one designated course to another under these Regulations and the circumstances in paragraph (5) apply, the student may apply to the Secretary of State to borrow an additional amount by way of a fee loan in respect of the academic year of the course to which that student transfers.

(5) The circumstances are—

(a) the fees payable in respect of the academic year of the course to which the current system student transfers exceed the fees payable in respect of the academic year of the course from which the student is transferring; and

(b) the academic year of the course to which the current system student transfers does not begin on a later date than the academic year of the course from which the student is transferring.

(6) If a student's status as an eligible student is transferred from one designated course to another under these Regulations and the circumstances in paragraph (7) apply, the student may apply to the Secretary of State for another fee loan in respect of the academic year of the course to which the student transfers.

(7) The circumstances are that the academic year of the course to which the current system student transfers begins on a later date than the academic year of the course from which that student is transferring.

(8) Where the circumstances in paragraph (5) apply, the maximum additional amount that the current system student may borrow in respect of the academic year to which that student transfers, provided that the student qualifies for a fee loan in respect of that year, is determined by deducting the amount of any fee loan the student has taken out under these Regulations in respect of the academic year from which the student is transferring from the lesser of—

(a) £3,225 or, where one of the cases set out in paragraph (3) applies, £1,610; and

(b) the fees payable by the student in respect of the academic year to which the student is transferring.

(9) Where the circumstances in paragraph (7) apply, the maximum amount of fee loan that a current system student may borrow in respect of the academic year to which that student transfers provided that the student qualifies for a fee loan in respect of that year is the lesser of—

(a) £3,225 or, where one of the cases set out in paragraph (3) applies, £1,610; and

(b) the fees payable by the student in connection with that year.

(10) Where a current system student has applied for a fee loan of less than the maximum amount available in relation to an academic year, that student may apply to borrow an additional amount which when added to the amount already applied for does not exceed the relevant maximum applicable in that student's case.

CHAPTER 4

GRANTS FOR FEES FOR OLD SYSTEM STUDENTS

Old system students who are continuing students

25.—(1) This regulation applies to an old system student who began a designated course before 1st September 2006 and is continuing on that course after 31st August 2009 (a "continuing student").

(2) A continuing student does not qualify for a grant for fees in respect of any academic year of the course that begins on or after 1st September 2009 where in the course of assessing an application for support in respect of an academic year of the designated course that began before 1st September 2006 the Secretary of State determined in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act that the student did not qualify for fee support in respect of the designated course.

(3) A continuing student does not qualify for a grant for fees in respect of a designated course if the designated course is a flexible postgraduate course for the initial training of teachers.

(4) A continuing student does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(5) When assessing an application for support in respect of an academic year of the designated course, the Secretary of State must determine the "standard entitlement".

(6) The standard entitlement is calculated as follows—

$$(SAY - X) + 1$$

where

SAY is the number of standard academic years of the designated course that begin after 31st August 2006,

X is the number of academic years of the designated course that begin after 31st August 2006 in respect of which the Secretary of State determined in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act that the student did not qualify for a grant for fees in the course of assessing an application for support in respect of an academic year of the designated course that began before 1st September 2006.

(7) When assessing an application for support in respect of an academic year of the designated course, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(8) A continuing student qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(9) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 31, 32 or 33 and may be nil.

Old system students who are transferring students

26.—(1) Subject to paragraph (2), this regulation applies to an old system student who—

(a) began a designated course on or after 1st September 2006 and is continuing on that course after 31st August 2009; or

(b) begins a designated course on or after 1st September 2009,

and whose status as an eligible student has been transferred to the course as a result of one or more transfers of that status by the Secretary of State pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act from a designated course that the student began before 1st September 2006 (a "transferring student").

(2) This regulation does not apply where an eligible student has transferred from a course in relation to which that student was a gap year student to another designated course in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act.

(3) Where in the course of assessing an application for support in respect of an academic year of the relevant course, the Secretary of State determined in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act that the student did not qualify for fee support in respect of that course, a transferring student does not qualify for a grant for fees in respect of any academic year of the current course.

(4) In this regulation, the "relevant course" is the designated course that the student was taking as at 31st August 2006.

(5) A transferring student does not qualify for a grant for fees in respect of a designated course if the designated course is an old flexible postgraduate course for the initial training of teachers.

(6) A transferring student does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(7) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the "standard entitlement".

(8) The standard entitlement is calculated as follows where the course began before 1st September 2007 and is not a course listed in paragraph (11)—

$$\left(RAY - X\right) + 1$$

where

RAY is the number of standard academic years of the relevant course that remain after 31st August 2006,

X is the number of academic years of the relevant course that remain after 31st August 2006 in respect of which the Secretary of State determined in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act that the student did not qualify for a grant for fees in the course of assessing an application for support in respect of an academic year of the relevant course where that year began before 1st September 2006.

(9) The standard entitlement is calculated as follows where the course begins on or after 1st September 2007 and is not a course listed in paragraph (11)—

$$\left(RAY - X - SS\right) + 1$$

where

RAY is the number of standard academic years of the relevant course that remain after 31st August 2006,

X is the number of academic years of the relevant course that remain after 31st August 2006 in respect of which the Secretary of State determined in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act that the student did not qualify for a grant for fees in the course of assessing an application for support in respect of an academic year of the relevant course where that year began before 1st September 2006,

SS is the number of academic years of study that the student has taken from and including 1st September 2006 in respect of which the student qualified for fee support (excluding any years of repeat study for compelling personal reasons) or which were bursary years or Erasmus years.

(10) The standard entitlement is calculated as follows where the course is one listed in paragraph (11)—

$$OD + 1$$

where

OD is the number of academic years that make up the ordinary duration of the designated course.

(11) The courses are—

(a) a course for the degree (including an honours degree) of Bachelor of Education where the student has transferred to that course from a course for the Certificate in Education on or before the completion of the latter course;

(b) a course for the honours degree of Bachelor of Education where the student has transferred to that course from a course for the degree (other than an honours degree) of Bachelor of Education on or before the completion of the latter course.

(12) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(13) A transferring student qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(14) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 31, 32 or 33 and may be nil.

Old system students who are on end-on courses

27.—(1) An old system student who is on an end-on course of the kind described in paragraph (a) of the definition of "end-on course" in regulation 2 that the student began before 1st September 2006 qualifies for a grant for fees in respect of that course in accordance with regulation 25.

(2) An old system student who is on an end-on course of the kind described in paragraph (c) of the definition of "end-on course" in regulation 2 qualifies for a grant for fees in respect of that course in accordance with regulation 25.

(3) Paragraphs (4) to (10) apply to—

(a) an old system student in respect of an end-on course of the kind described in paragraph (a) of the definition of "end-on course" in regulation 2 that the student—

(i) began on or after 1st September 2006 and is continuing on after 31st August 2009; or

(ii) begins on or after 1st September 2009;

(b) an old system student in respect of an end-on course of the kind described in paragraph (b) of the definition of "end-on course" in regulation 2.

(4) An old system student to whom this paragraph applies does not qualify for fee support in respect of a course mentioned in paragraph (3) if the student has an honours degree from an institution in the United Kingdom and the exemption in regulation 14(1), (2) or (3) does not apply.

(5) An old system student to whom this paragraph applies does not qualify for a grant for fees in respect of an academic year of a course mentioned in paragraph (3) that is a bursary year or an Erasmus year.

(6) When assessing an application for support in respect of an academic year of a course mentioned in paragraph (3), the Secretary of State must determine the "standard entitlement".

(7) The standard entitlement is calculated as follows—

$$\left(D + X\right) - \mathrm{Pr}C$$

where

D is the greater of 3 and the number of academic years that make up the ordinary duration of the course,

X is 1 where the ordinary duration of the preliminary course was less than three years and 2 where the ordinary duration of the preliminary course was three years,

PrC is the number of academic years that the student spent on the preliminary course excluding any years of repeat study for compelling personal reasons.

(8) When assessing an application for support in respect of an academic year of a course to which this paragraph applies, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(9) An old system student to whom this paragraph applies qualifies for a grant for fees in respect of a standard academic year of a course to which this paragraph applies if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(10) The amount of the grant for fees in respect of an academic year of a course to which this paragraph applies is determined in accordance with regulation 31, 32 or 33 and may be nil.

Old system students who are gap year students who have not studied on a previous course

28.—(1) This regulation applies to an old system student who is a gap year student who has not studied on a previous course.

(2) A gap year student does not qualify for fee support in respect of a designated course if—

(a) the student has an honours degree from an institution in the United Kingdom and the exemption in regulation 14(1), (2) or (3) does not apply; or

(b) the designated course is an old flexible postgraduate course for the initial training of teachers.

(3) A gap year student does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(4) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the "standard entitlement".

(5) The standard entitlement is calculated as follows—

$$OD + 1$$

where

OD is the number of academic years that make up the ordinary duration of the course.

(6) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(7) A gap year student qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(8) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 31 or 32 and may be nil.

Old system students who are gap year students who have studied on a previous course

29.—(1) This regulation applies where—

(a) an old system student is a gap year student who has studied on a previous course;

(b) an old system student has transferred from a course in relation to which that student was a gap year student to another designated course in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act.

(2) An old system student to whom this regulation applies does not qualify for fee support in respect of a designated course if—

(a) the student has an honours degree from an institution in the United Kingdom and the exemption in regulation 14(1), (2) or (3) does not apply; or

(b) the designated course is an old flexible postgraduate course for the initial training of teachers.

(3) An old system student to whom this regulation applies does not qualify for a grant for fees in respect of an academic year of a designated course that is a bursary year or an Erasmus year.

(4) When assessing an application for support in respect of an academic year of a designated course, the Secretary of State must determine the "standard entitlement".

(5) The standard entitlement is calculated as follows—

$$\left(OD + 1\right) - PC$$

where

OD is the number of academic years that make up the ordinary duration of the course,

PC is the number of academic years that the student has spent on previous courses.

(6) When assessing an application for support in connection with an academic year of a designated course, the Secretary of State must allocate a grant for fees from the standard entitlement first to the final standard academic year of the course and then to each preceding standard academic year in turn until the standard entitlement is exhausted or a grant for fees has been allocated to each standard academic year of the course.

(7) An old system student to whom this regulation applies qualifies for a grant for fees in respect of a standard academic year of the designated course if the Secretary of State allocates a grant for fees to that year when assessing the application for support for that year.

(8) In addition to the standard entitlement, an old system student to whom this regulation applies qualifies for a grant for fees in respect of the first academic year that the student takes of the designated course that is not a bursary year or an Erasmus year if the student failed to complete the most recent previous course because of compelling personal reasons.

(9) Where an old system student to whom this regulation applies qualifies for a grant for fees under paragraph (8), the Secretary of State must not allocate a grant for fees under paragraph (6) to the first academic year that the student takes of the designated course that is not a bursary year or an Erasmus year.

(10) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 31 or 32 where the eligible student falls within paragraph (1)(a) and in accordance with regulation 31, 32 or 33 where the eligible student falls within paragraph (1)(b) and in either case the amount may be nil.

Availability of the grant for fees to old system students for years of repeat study

30.—(1) In addition to the standard entitlement, if the Secretary of State determines that the student is repeating an academic year of the designated course because of compelling personal reasons, an old system student qualifies for a grant for fees in respect of the year of repeat study provided that the academic year that the student is repeating was a qualifying year of study and the year of repeat study is not a bursary year.

(2) An old system student qualifies for a grant for fees in respect of an academic year of a designated course that is a year of repeat study which the student is taking other than for compelling personal reasons if—

(a) the academic year which the student is repeating was a qualifying year of study;

(b) the academic year of repeat study is not a bursary year; and

(c) when the academic year of repeat study is added to the number of any other academic years of repeat study that the student has already taken (after 31st August 2006) on the current course other than for compelling personal reasons, it does not exceed the number of additional years of support.

(3) In this regulation, the "number of additional years of support" is the number of years which make up the standard entitlement less the number of standard academic years (plus one where the student qualifies for a grant for fees under regulation 29(8)).

Amount of the grant for fees for a course at a publicly funded institution

31.—(1) Unless one of the cases set out in regulation 24(3) applies, the basic amount of the grant for fees in respect of an academic year of a designated course at a publicly funded institution is the lesser of—

(a) £1,285; and

(b) the fees payable by the student in connection with that year.

(2) In the cases set out in regulation 24(3), the basic amount of the grant for fees in respect of an academic year is the lesser of—

(a) £640; and

(b) the fees payable by the student in connection with that year.

(3) Where a contribution exceeding nil is calculated under Schedule 4, a deduction will be made from the basic amount of the grant for fees determined under paragraph (1) or (2) in accordance with regulation 98.

(4) Paragraphs (1) to (3) do not apply to designated courses at Heythrop College or at Guildhall School of Music and Drama.

(5) In the case of a designated course at Heythrop College, the amount of grant for fees in respect of an academic year is the lesser of—

(a) £2,300; and

(b) the fees payable by the student in connection with that year.

(6) In the case of a designated course at Guildhall School of Music and Drama, the amount of grant for fees in respect of an academic year is the lesser of—

(a) £4,680; and

(b) the fees payable by the student in connection with that year.

Amount of the grant for fees for a course that is provided at a private institution on behalf of a publicly funded institution

32.—(1) The basic amount of the grant for fees in respect of an academic year at a private institution is the lesser of £1,285 and the fees payable by the student in connection with that year if—

(a) the designated course began on or after 1st September 2001;

(b) the designated course is provided on behalf of a publicly funded institution; and

(c) none of the cases in regulation 24(3) applies.

(2) The amount of the grant for fees in respect of an academic year at a private institution is the lesser of £640 and the fees payable by the student in connection with that year if—

(a) the designated course began on or after 1st September 2001;

(b) the designated course is provided on behalf of a publicly funded institution; and

(c) one or more of the cases in regulation 24(3) applies.

(3) Where a contribution exceeding nil is calculated under Schedule 4, a deduction will be made from the basic amount of the grant for fees determined under paragraph (1) or (2) in accordance with regulation 98.

Amount of the grant for fees for a course at a private institution

33.—(1) Subject to paragraph (2), the amount of the grant for fees in respect of an academic year of a designated course at a private institution where regulation 32 does not apply is the lesser of—

(a) £1,205; and

(b) the fees payable by the student in connection with that year.

(2) In the case of a designated course at the University of Buckingham, the amount of the grant for fees in respect of an academic year is £3,050.

CHAPTER 5

FEE CONTRIBUTION LOANS FOR OLD SYSTEM STUDENTS

Availability of fee contribution loans to old system students

34. An old system student qualifies for a fee contribution loan in respect of an academic year of a designated course if—

(a) the student qualifies for a grant for fees in respect of that year or would have qualified if the student had applied for the grant (even if the amount is or would have been nil); and

(b) the designated course is provided by or on behalf of an institution that was publicly funded as at 1st August 2005.

Amount of the fee contribution loan

35.—(1) Where an old system student applies for a grant for fees and a fee contribution loan, the amount of the fee contribution loan in respect of an academic year of the designated course is the amount for which the student applies not exceeding the difference between the basic amount of the grant determined under regulation 31 or 32 and the amount of the grant that is payable after the application of the contribution in accordance with regulation 98.

(2) Where the only fee support for which an old system student applies is a fee contribution loan, the maximum amount for which the student may apply in respect of an academic year is the lesser of—

(a) £1,285 or, if any of the cases set out in regulation 24(3) apply, £640; and

(b) the fees payable by the student in connection with the academic year.

(3) An old system student may apply to borrow an additional amount of fee contribution loan where—

(a) the Secretary of State determines that the maximum amount of fee contribution loan should be increased (including an increase from nil) as a result of a reassessment of the student's contribution or otherwise; and

(b) the Secretary of State considers that the increase in the maximum amount does not result from the old system student—

(i) failing to provide information promptly which might affect the student's ability to qualify for a grant for fees or fee contribution loan or the amount of grant for fees or fee contribution loan for which the student qualifies; or

(ii) providing information which is inaccurate in any material particular.

(4) The additional amount under paragraph (3) is an amount which when added to the amount already applied for does not exceed the increased maximum.

(5) Where an old system student ("A") has applied for a fee contribution loan of less than the maximum amount to which A is entitled, A may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in A's case.

PART 5

GRANTS FOR LIVING AND OTHER COSTS

CHAPTER 1

TYPES OF GRANTS AVAILABLE

Current system students

36. The following grants are available to a current system student in connection with a designated course if the student meets the relevant qualifying conditions in this Part—

(a) disabled students' allowance;

(b) grant for dependants;

(c) grant for travel;

(d) maintenance grant or special support grant.

Old system students

37. The following grants are available to an old system student in connection with a designated course if the student meets the relevant qualifying conditions in this Part—

(a) disabled students' allowance;

(b) grant for dependants;

(c) grant for travel;

(d) higher education grant.

CHAPTER 2

GENERAL PROVISIONS

General qualifying conditions for grants for living and other costs

38.—(1) An eligible student qualifies for a grant under this Part provided that the student—

(a) is not excluded from qualification by any of the following paragraphs; and

(b) satisfies the qualifying conditions for the particular grant for which the student is applying.

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

(3) An eligible student does not qualify for a grant under this Part in respect of —

(a) an academic year which is a bursary year;

(b) an academic year of a course for the initial training of teachers during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks; or

(c) a flexible postgraduate course for the initial training of teachers which is of less than one academic year's duration.

(4) Paragraph (3)(b) does not apply for the purposes of the disabled students' allowance.

(5) An eligible student does not qualify for a grant under this Part in respect of any academic year of a sandwich course where the periods of full-time study are in aggregate less than 10 weeks unless the periods of work experience constitute unpaid service.

(6) For the purposes of paragraph (5), "unpaid service" means—

(a) unpaid service in a hospital or in a public health service laboratory or with a primary care trust in the United Kingdom;

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

(c) unpaid service in the prison or probation and aftercare service in the United Kingdom;

(d) unpaid research in an institution in the United Kingdom or, in the case of a student attending an overseas institution as part of the student's course, in an overseas institution; or

(e) unpaid service with—

(i) a Strategic Health Authority established pursuant to section 13 of the National Health Service Act 2006 or a Special Health Authority established pursuant to section 28 of that Act (**a**);

(ii) a Local Health Board established pursuant to section 11 of the National Health Service (Wales) Act 2006 or a Special Health Authority established pursuant to section 22 of that Act (**b**);

(iii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(**c**); or

(iv) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**d**).

(7) Subject to paragraph (8), where one of the events listed in regulation 18 (a), (b), (c), (e), (f), (g) or (h) occurs in the course of an academic year, a student may qualify for a particular grant in accordance with this Part in respect of all or part of that academic year but a student does not qualify for such a grant in respect of any academic year beginning before the academic year in which the relevant event occurred.

(8) Where the state of which the student is a national accedes to the European Community the student may qualify for a grant under this Part only if the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course.

(9) Subject to paragraph (10), an eligible student does not qualify for a grant under this Part if the student is a prisoner.

(10) Paragraph (9) does not apply in respect of disabled students' allowance.

Students who are treated as in attendance

39. —(1)A student to whom this regulation applies is treated as being in attendance on the designated course for the purpose of qualifying for the following grants—

(a) grant for dependants;

(b) disabled students' allowance;

(c) maintenance grant or special support grant;

(d) higher education grant.

(2) This regulation applies to—

(a) a compressed degree student;

(b) a disabled student who—

(i) is not a compressed degree student; and

(**a**) 2006 c.41.
(**b**) 2006 c.42.
(**c**) 1978 c. 29.
(**d**) S.I. 1972/1265 (N.I. 14), to which there have been amendments not relevant to these regulations.

(ii) is undertaking a designated course in the United Kingdom but is not in attendance because the student is unable to attend for a reason which relates to the student's disability.

CHAPTER 3

DISABLED STUDENTS' ALLOWANCES

Qualifying conditions for the disabled students' allowance

40. An eligible student ("A") qualifies for a grant to assist with the additional expenditure which the Secretary of State is satisfied that A is obliged to incur in connection with A's attendance on a designated course by reason of a disability to which A is subject.

Amount of the disabled students' allowance

41.—(1) Subject to the following paragraphs, the amount of the disabled students' allowance is the amount that the Secretary of State considers appropriate in accordance with the student's circumstances.

(2) Except where paragraph (4) applies, the amount of the disabled students' allowance must not exceed—

(a) £20,520 in respect of an academic year for expenditure on a non-medical personal helper;

(b) £5,161 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;

(c) the additional expenditure incurred—

(i) within the United Kingdom for the purpose of attending the institution;

(ii) within or outside the United Kingdom for the purpose of attending, as a part of the student's course, any period of study at an overseas institution or for the purpose of attending the Institute;

(d) £1,724 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the maxima specified in those sub-paragraphs.

(3) Where the eligible student has received payments to assist with expenditure on major items of specialist equipment in connection with the course by virtue of holding a transitional award, the maximum amount of grant under paragraph (2)(b) is reduced by the amount of those payments.

(4) The maximum amount under paragraphs (2)(a) and (d) is £15,390 and £1,293, respectively where—

(a) an eligible student attends a course for the initial training of teachers; and

(b) in any academic year of that course, the periods of full-time study and full-time teaching practice are in aggregate less than 6 weeks.

CHAPTER 4

GRANTS FOR DEPENDANTS

Interpretation of Chapter 4

42.—(1) In regulations 44 to 47—

(a) subject to sub-paragraph (n), "adult dependant" means, in relation to an eligible student, an adult person dependent on the student other than the student's child, the student's partner (including a spouse or civil partner from whom the Secretary of State considers the student is separated) or the student's former partner;

(b) "child" in relation to an eligible student includes any child of the student's partner who is dependent on the student and any child for whom the student has parental responsibility who is dependent on the student;

(c) "dependant" means, in relation to an eligible student, the student's partner, the student's dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;

(d) "dependent" means wholly or mainly financially dependent;

(e) "dependent child" means, in relation to an eligible student, a child dependent on the student;

(f) "lone parent" means an eligible student who does not have a partner and who has a dependent child or dependent children;

(g) "net income" has the meaning given in paragraph (2);

(h) subject to sub-paragraphs (i), (j), (k), (l) and (m), "partner" means any of the following—

(i) the spouse of an eligible student;

(ii) the civil partner of an eligible student;

(iii) a person ordinarily living with an eligible student as if that person were the student's spouse where an eligible student falls within paragraph 2(1)(a) of Schedule 4 and began the specified designated course on or after 1st September 2000;

(iv) a person ordinarily living with an eligible student as if that person were the student's civil partner where an eligible student falls within paragraph 2(1)(a) of Schedule 4 and began the specified designated course on or after 1st September 2005;

(i) unless otherwise indicated, a person who would otherwise be a partner under sub-paragraph (h) is not to be treated as a partner if—

(i) in the opinion of the Secretary of State, that person and the eligible student are separated; or

(ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible student;

(j) for the purposes of the definition of "adult dependant", a person is to be treated as a partner if that person would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom that person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 4;

(k) for the purposes of the definitions of "child" and "lone parent", a person is to be treated as a partner if that person would be a partner under sub-paragraph (h) but for the date on which the eligible student began the specified designated course or the fact that the eligible student with whom that person is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 4;

(l) for the purposes of regulation 45—

(i) sub-paragraph (i) does not apply; and

(ii) a person is to be treated as a partner if that person would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom that person is ordinarily living does not fall within paragraph (2)(1)(a) of Schedule 4;

(m) for the purposes of determining whether a person is the former partner of an eligible student's partner, "partner" in relation to an eligible student's partner means—

(i) the spouse of an eligible student's partner;

(ii) the civil partner of an eligible student's partner;

(iii) where the eligible student began the specified designated course on or after 1st September 2000, a person ("A") ordinarily living with an eligible student's partner ("B") as if A were B's spouse;

(iv) where the eligible student began the specified designated course on or after 1st September 2005, a person "A" ordinarily living with an eligible student's partner "B" as if A were B's civil partner;

(n) subject to sub-paragraph (o), for the purposes of the definitions of "adult dependant" and "dependent child", the Secretary of State may treat an adult person or child as dependent on an eligible student if the Secretary of State is satisfied that the adult person or child—

(i) is not dependent on—

(aa) the eligible student; or

(bb) the student's partner; but

(ii) is dependent on the eligible student and the student's partner together;

(o) the Secretary of State must not treat an adult person ("A") as dependent on an eligible student in accordance with sub-paragraph (n), if A is—

(i) the spouse or civil partner of the eligible student's partner (including a spouse or civil partner from whom the Secretary of State considers the eligible student's partner is separated); or

(ii) the former partner of the eligible student's partner.

(2) Subject to paragraph (3), a dependant's net income is the dependant's income from all sources for the academic year in question reduced by the amount of income tax and social security contributions payable in respect of it but disregarding—

(a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;

(b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992(**a**);

(c) any financial support payable to the dependant by a local authority in accordance with regulations made under sections 2, 3 and 4 of the Adoption and Children Act 2002(**b**);

(d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;

(e) in the case of a dependant with whom a child being looked after by a local authority is boarded out, any payment made to that dependant in pursuance of section 23 of the Children Act 1989(**c**);

(f) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant's child or any assistance given by a local authority pursuant to section 24 of that Act(**d**); and

(g) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002(**e**).

(3) Where an eligible student or the student's partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student's course, the partner's net income is the net income calculated in accordance with paragraph (2) reduced by—

(a) an amount equal to the payments in question for the academic year, if in the opinion of the Secretary of State the obligation had been reasonably incurred; or

(b) such lesser amount, if any, as the Secretary of State considers appropriate if, in the opinion of the Secretary of State, a lesser obligation could reasonably have been incurred.

(**a**) 1992 c. 4 to which there are amendments not relevant to these Regulations.
(**b**) 2002 c. 38.
(**c**) 1989 c. 41. Section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 6, paragraph 12, the Care Standards Act 2000 (c. 14), Schedule 4, paragraph 14 and the Children Act 2004 (c. 31), section 49(3)
(**d**) 1989 c. 41. There are amendments to sections 15 and 24 and Schedule 1 which are not relevant to these Regulations.
(**e**) 2002 c. 21; section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24 and there are amendments not relevant to these Regulations.

(4) For the purposes of paragraph (2), where the dependant is a dependent child and payments are made to the eligible student towards the child's maintenance, those payments are to be treated as the child's income.

General

43.—(1)The grant for dependants consists of the following elements—

(a) adult dependants' grant;

(b) childcare grant;

(c) parents' learning allowance.

(2) The qualifying conditions for each element and the amounts payable are set out in regulations 44 to 47.

Adult dependants' grant

44.—(1) An eligible student qualifies for an adult dependants' grant in connection with the student's attendance on a designated course in accordance with this regulation.

(2) The adult dependants' grant is available in respect of one dependant of an eligible student who is either—

(a) the eligible student's partner; or

(b) an adult dependant whose net income does not exceed £3,796.

(3) The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 47, the basic amount being—

(a) £2,642; or

(b) where the person in respect of whom the eligible student is applying for adult dependants' grant is ordinarily resident outside the United Kingdom, such amount not exceeding £2,642 as the Secretary of State considers reasonable in the circumstances.

Childcare grant

45. —(1) An eligible student ("A") qualifies for a childcare grant in connection with A's attendance on a designated course in accordance with this regulation.

(2) Subject to paragraphs (3) and (4), the childcare grant is available in respect of an academic year in which A incurs prescribed childcare charges for—

(a) a dependent child who is under the age of 15 immediately before the beginning of the academic year; or

(b) a dependent child who has special educational needs within the meaning of section 312 of the Education Act 1996(**a**) and is under the age of 17 immediately before the beginning of the academic year.

(3) A does not qualify for a childcare grant if A or A's partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act 2002(**b**).

(4) A does not qualify for a childcare grant if the prescribed childcare charges that A incurs for A's child are paid or to be paid by A to A's partner.

(5) Subject to paragraph (6), the basic amount of childcare grant for each week is—

(a) for one dependent child, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £148.75 per week; or

---

(**a**) 1996 c. 56; section 312 was amended by the Education Act 1997 (c. 44), Schedule 7, paragraph 23, the Schools Standards and Framework Act 1998 (c. 31), section 140, Schedule 30, paragraph 71 and Schedule 31, the Learning and Skills Act 2000 (c. 21), Schedule 9, paragraph 56 and the Education and Inspections Act 2006 (c. 40), Schedule 1, paragraph 3.

(**b**) 2002 c. 21 to which there are amendments not relevant to these Regulations.

(b) for two or more dependent children, 85 per cent. of the prescribed childcare charges, subject to a maximum amount of £255 per week

except that A does not qualify for any such grant in respect of each week falling within the period between the end of the course and the end of the academic year in which the course ends.

(6) For the purposes of calculating the basic amount of childcare grant—

(a) a week runs from Monday to Sunday; and

(b) where a week in respect of which prescribed childcare charges are incurred falls partly within and partly outside the academic year in respect of which childcare grant is payable under this regulation, the maximum weekly amount of grant is calculated by multiplying the relevant maximum weekly amount in paragraph (5) by the number of days of that week falling within the academic year and dividing the product by seven.

(7) In this regulation "prescribed childcare charges" means childcare charges of a description prescribed for the purposes of section 12 of the Tax Credits Act 2002(**a**).

Parents' learning allowance

46.—(1) An eligible student ("A") qualifies in connection with A's attendance on a designated course for the parents' learning allowance if A has one or more dependants who are dependent children.

(2) The amount of parents' learning allowance payable in respect of an academic year is calculated in accordance with regulation 47, the basic amount being £1,508.

Calculations

47.—(1) Subject to the following paragraphs, the amount payable in respect of a particular element of the grant for dependants for which the eligible student qualifies under regulations 44 to 46 is the amount of that element remaining after applying, until it is extinguished, an amount equal to $A - B$ as follows and in the following order—

(a) to reduce the basic amount of the adult dependants' grant where the eligible student qualifies for that element under regulation 44;

(b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 45; and

(c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 46.

(2) Subject to paragraphs (4), (5) and (13), where B is greater than or equal to A, the basic amount of each element of the grant for dependants for which the eligible student qualifies is payable.

(3) Where $A - B$ is equal to or exceeds the aggregate of the basic amounts of the elements of the grant for dependants for which the eligible student qualifies, the amount payable in respect of each element is nil.

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

(a) the eligible student's partner—

(i) is an eligible student; or

(ii) holds a statutory award; and

(**a**) Regulation 14 of the Working Tax Credit (Entitlement and Maximum Amount) Regulations 2002 (S.I. 2002/2005; as amended by S.I. 2003/701, S.I. 2003/2815, S.I. 2004/762, S.I. 2004/1276, S.I. 2004/2663, S.I. 2005/769, S.I. 2005/2919, S.I. 2006/766, S.I. 2007/824, S.I. 2007/2479 and S.I. 2008/604) sets out the charges that are prescribed for the purposes of section 12 of the Tax Credits Act 2002.

(b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which that partner is entitled under the statutory award.

(5) The amount of childcare grant calculated under paragraph (1) is reduced by one half where—

(a) the eligible student's partner—

(i) is an eligible student; or

(ii) holds a statutory award; and

(b) account is taken of that partner's dependants in calculating the amount of support for which that partner qualifies or the payment to which that partner is entitled under the statutory award.

(6) Where the amount of the parents' learning allowance calculated under paragraph (1) is £0.01 or more but less than £50, the amount of parents' learning allowance payable is £50.

(7) In this regulation—

A is the aggregate of the net income of each of the eligible student's dependants; and

B is—

(a) £1,159 where the eligible student has no dependent child;

(b) £3,473 where the eligible student is not a lone parent and has one dependent child;

(c) £4,627 where the eligible student—

(i) is not a lone parent and has more than one dependent child; or

(ii) is a lone parent and has one dependent child;

(d) £5,792 where the eligible student is a lone parent and has more than one dependent child.

(8) Paragraphs (9) to (12) apply where, in the course of the academic year, any of the following occurs—

(a) there is a change in the number of the eligible student's dependants;

(b) a person becomes or ceases to be a dependant of the eligible student;

(c) the eligible student becomes or ceases to be a lone parent;

(d) a student becomes eligible for support as a result of an event referred to in regulation 18.

(9) For the purposes of determining the respective values of *A* and *B* and whether adult dependants' grant or parents' learning allowance is payable, the Secretary of State must determine the following in relation to each relevant quarter by reference to the student's circumstances in the relevant quarter—

(a) how many dependants the eligible student is to be treated as having;

(b) who those dependants are;

(c) whether the student is to be treated as a lone parent.

(10) The amount of grant for dependants for the academic year is the aggregate of the amounts of adult dependants' grant and parents' learning allowance calculated in respect of each relevant quarter under paragraph (11) and the amount of any childcare grant for the academic year.

(11) The amount of adult dependants' grant and parents' learning allowance in respect of a relevant quarter is one third of what that grant or allowance would be for the academic year if the student's circumstances in the relevant quarter as determined under paragraph (9) applied for the duration of the academic year.

(12) In this regulation, a "relevant quarter" means—

(a) in the case of a person referred to in paragraph (8)(d), a quarter which begins after the relevant event occurs other than a quarter during which, in the opinion of the Secretary of State, the longest of any vacation occurs;

(b) otherwise, a quarter other than the one quarter during which, in the opinion of the Secretary of State, the longest of any vacation occurs.

(13) A deduction may be made in accordance with Part 9 from the amount payable in respect of a particular element of the grant for dependants calculated under this Part.

CHAPTER 5

GRANTS FOR TRAVEL

Interpretation

48. For the purposes of this Chapter—

(a) any reference to expenditure incurred for the purpose of attending an institution or period of study—

(i) includes expenditure both before and after so attending; and

(ii) does not include any expenditure in respect of which a grant is payable under Chapter 3 of this Part;

(b) "qualifying quarter" means a quarter during which the eligible student attends as part of the student's course an overseas institution or the Institute for at least half the period covered by that quarter.

General

49. A grant for travel is available—

(a) to eligible students attending courses in medicine or dentistry in accordance with regulation 50;

(b) to eligible students attending an overseas institution or the Institute in accordance with regulation 52.

Qualifying conditions for the grant for travel – courses in medicine and dentistry

50. A grant is available to an eligible student attending a course in medicine or dentistry (a necessary part of which is a period of study by way of clinical training) in respect of the reasonable expenditure which the student is obliged to incur in an academic year for the purpose of attending in connection with the student's course any hospital or other premises in the United Kingdom (not comprised in the institution) at which facilities for clinical training are provided other than expenditure incurred for the purpose of residential study away from the institution.

Amount of the grant for travel – courses in medicine and dentistry

51. The amount of grant payable under regulation 50 in respect of an academic year is equal to the reasonable expenditure that the Secretary of State determines the eligible student is obliged to incur for the purposes set out in that regulation less £303.

Qualifying conditions for the grant for travel – overseas study

52. A grant is available to an eligible student in respect of the reasonable expenditure which the student is obliged to incur in each qualifying quarter within or outside the United Kingdom for the purpose of attending as part of the student's course the overseas institution or the Institute.

Amount of the grant for travel – overseas study

53. The amount of grant payable under regulation 52 in respect of an academic year is calculated as follows—

$(X - £303) + Y$ where—

X is the aggregate of the reasonable travel costs that the eligible student is obliged to incur in each qualifying quarter for the purposes set out in regulation 52.

Y is the aggregate of the expenditure incurred in each qualifying quarter specified in regulation 54.

54. The expenditure specified in this regulation is—

(a) expenditure that the eligible student reasonably incurs 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 the period the student is attending the overseas institution or the Institute;

(b) the cost of a visa or visas that the eligible student is obliged to obtain in order to attend the overseas institution or the Institute; and

(c) medical costs that the eligible student reasonably incurs in order to fulfil a mandatory condition of entry into the territory, country or state in which the overseas institution or the Institute is situated.

Deductions from the grant for travel

55. A deduction may be made from any grant under this Chapter in accordance with Part 9.

CHAPTER 6

MAINTENANCE GRANTS FOR CURRENT SYSTEM STUDENTS

Qualifying conditions for the maintenance grant

56.—(1) A current system student qualifies in accordance with this regulation for a maintenance grant in connection with the student's attendance on a designated course.

(2) A current system student does not qualify for a maintenance grant if the student qualifies for a special support grant.

(3) If a current system student does not qualify for a fee loan in respect of an academic year of the designated course, the student cannot qualify for a maintenance grant for that year unless the reason that the student does not qualify for a fee loan is that—

(a) the year is an Erasmus year; or

(b) the designated course is an old flexible postgraduate course for the initial training of teachers.

Amount of the maintenance grant – 2008 cohort students

57.—(1) The maximum amount of maintenance grant available to a 2008 cohort student in respect of an academic year is —

(a) in the case of a type 1 or type 3 teacher training student, £1,453;

(b) in the case of a type 2 teacher training student, £2,906; and

(c) in the case of a 2008 cohort student other than a type 1, type 2 or type 3 teacher training student, £2,906.

(2) A type 1 teacher training student who is a 2008 cohort student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £25,000 or less, the student receives £1,453;

(b) where the household income exceeds £25,000 but does not exceed £34,459, the student receives an amount equal to $M - \left(\frac{A}{2}\right)$ where—

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £25,000; and

(c) where the household income exceeds £34,459 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £646.

(3) A type 2 teacher training student who is a 2008 cohort student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year —

(a) where the household income is £25,000 or less, the student receives £2,906;

(b) where the household income exceeds £25,000 but does not exceed £34,459, the student receives an amount equal to $M - A$ where—

M is £2,906

A is £1 for every complete £5.86 by which the household income exceeds £25,000; and

(c) where the household income exceeds £34,459 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £1,292.

(4) A type 3 teacher training student who is a 2008 cohort student who qualifies for a maintenance grant in respect of an academic year receives, subject to sub-paragraph (c), an amount as follows in respect of that year—

(a) where the household income is £25,000 or less, the student receives £1,453;

(b) where the household income exceeds £25,000 but does not exceed £60,032, the student receives an amount equal to $M - \left(\frac{A+B}{2} \right)$ where—

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £25,000 but does not exceed £34,459

B is £1 for every complete £20.59 by which the household income exceeds £34,459 but does not exceed £60,032; and

(c) where the household income exceeds £60,032, no maintenance grant is payable.

(5) A 2008 cohort student other than a type 1, type 2 or type 3 teacher training student who qualifies for a maintenance grant in respect of an academic year receives, subject to sub-paragraph (c), an amount as follows in respect of that year—

(a) where the household income is £25,000 or less, the student receives £2,906;

(b) where the household income exceeds £25,000 but does not exceed £60,032, the student receives an amount equal to $M - (A + B)$ where—

M is £2,906

A is £1 for every complete £5.86 by which the household income exceeds £25,000 but does not exceed £34,459

B is £1 for every complete £20.59 by which the household income exceeds £34,469 but does not exceed £60,032; and

(c) where the household income exceeds £60,032, no maintenance grant is payable.

Amount of the maintenance grant – current system students who are not 2008 cohort students

58.—(1) The maximum amount of maintenance grant available to a current system student who is not a 2008 cohort student in respect of an academic year is—

(a) in the case of a type 1 or type 3 teacher training student, £1,453;

(b) in the case of a type 2 teacher training student, £2,906; and

(c) in the case of a current system student other than a type 1, type 2 or type 3 teacher training student, £2,906.

(2) A type 1 teacher training student who is not a 2008 cohort student and who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £18,360 or less, the student receives £1,453;

(b) where the household income exceeds £18,360 but does not exceed £27,819 the student receives an amount equal to $M - \left(\frac{A}{2}\right)$

where

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,819 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £646.

(3) A type 2 teacher training student who is not a 2008 cohort student and who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year —

(a) where the household income is £18,360 or less, the student receives £2,906;

(b) where the household income exceeds £18,360 but does not exceed £27,819, the student receives an amount equal to $M - A$ where—

M is £2,906

A is £1 for every complete £5.86 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,819 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £1,292.

(4) A type 3 teacher training student who is not a 2008 cohort student who qualifies for a maintenance grant in respect of an academic year receives, subject to sub-paragraph (c), an amount as follows in respect of that year—

(a) where the household income is £18,360 or less, the student receives £1,453;

(b) where the household income exceeds £18,360 but does not exceed £39,333, the student receives an amount equal to $M - \left(\frac{A+B}{2}\right)$ where—

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £18,360 but does not exceed £27,819

B is £1 for every complete £9.27 by which the household income exceeds £27,819 but does not exceed £39,333; and

(c) where the household income exceeds £39,333, no maintenance grant is payable.

(5) A current system student other than a 2008 cohort student or a type 1, type 2 or type 3 teacher training student who qualifies for a maintenance grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £18,360 or less, the student receives £2,906;

(b) where the household income exceeds £18,360 but does not exceed £27,819, the student receives an amount equal to $M - A$ where—

M is £2,906

A is £1 for every complete £5.86 by which the household income exceeds £18,360;

(c) where the household income exceeds £27,819 but does not exceed £39,333, the student receives an amount equal to $RM - A$ where—

RM is £1,292

A is £1 for every complete £9.27 by which the household income exceeds £27,819;

(d) where the household income exceeds £39,333, no maintenance grant is payable.

CHAPTER 7

SPECIAL SUPPORT GRANTS FOR CURRENT SYSTEM STUDENTS

Qualifying conditions for the special support grant

59.—(1) A current system student qualifies in accordance with this regulation for a special support grant in connection with the student's attendance on a designated course to defray the costs of books, equipment, travel or childcare incurred for the purpose of attending that course.

(2) A current system student qualifies for a special support grant if the student—

(a) falls within a prescribed category of person for the purposes of section 124(1)(e) of the Social Security Contributions and Benefits Act 1992(**a**); or

(b) is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act(**b**).

(3) If a current system student does not qualify for a fee loan in respect of an academic year of the designated course, the student cannot qualify for a special support grant for that year unless the reason that the student does not qualify for a fee loan is that—

(a) the year is an Erasmus year; or

(b) the designated course is an old flexible postgraduate course for the initial training of teachers.

Amount of the special support grant – 2008 cohort students

60.—(1) The maximum amount of special support grant available to a 2008 cohort student in respect of an academic year is —

(a) in the case of a type 1 or type 3 teacher training student, £1,453;

(b) in the case of a type 2 teacher training student, £2,906; and

(c) in the case of a 2008 cohort student other than a type 1, type 2 or type 3 teacher training student, £2,906.

(2) A type 1 teacher training student who is a 2008 cohort student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £25,000 or less, the student receives £1,453;

(b) where the household income exceeds £25,000 but does not exceed £34,459 the student receives an amount equal to $M - \left(\frac{A}{2}\right)$ where—

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £25,000; and

---

(**a**) 1992 c.4 inserted by the Jobseekers Act 1995 (c.18), Schedule 2 paragraph 30 (5). The relevant regulation is regulation 4ZA of the Income Support (General) Regulations 1987 (S.I. 1987/1967). Regulation 4ZA was inserted by S.I. 1996/206, amended by S.I. 2000/1981 and S.I. 2006/2144; there are other amending instruments but none is relevant.

(**b**) There are amendments to section 130 which are not relevant to these Regulations. The relevant regulation is regulation 56 of the Housing Benefit Regulations 2006 (S.I. 2006/213, as amended by S.I. 2006/718).

(c) where the household income exceeds £34,459 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £646.

(3) A type 2 teacher training student who is a 2008 cohort student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £25,000 or less, the student receives £2,906;

(b) where the household income exceeds £25,000 but does not exceed £34,459, the student receives an amount equal to $M - A$ where—

M is £2,906

A is £1 for every complete £5.86 by which the household income exceeds £25,000; and

(c) where the household income exceeds £34,459 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £1,292.

(4) A type 3 teacher training student who is a 2008 cohort student who qualifies for a special support grant in respect of an academic year receives, subject to sub-paragraph (c), an amount as follows in respect of that year—

(a) where the household income is £25,000 or less, the student receives £1,453;

(b) where the household income exceeds £25,000 but does not exceed £60,032, the student receives an amount equal to $M - \left(\frac{A+B}{2} \right)$ where—

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £25,000 but does not exceed £34,459

B is £1 for every complete £20.59 by which the household income exceeds £34,459 but does not exceed £60,032; and

(c) where the household income exceeds £60,032, no special support grant is payable.

(5) A 2008 cohort student other than a type 1, type 2 or type 3 teacher training student who qualifies for a special support grant in respect of an academic year receives, subject to sub-paragraph (c), an amount as follows in respect of that year—

(a) where the household income is £25,000 or less, the student receives £2,906;

(b) where the household income exceeds £25,000 but does not exceed £60,032, the student receives an amount equal to $M - (A + B)$ where—

M is £2,906,

A is £1 for every complete £5.86 by which the household income exceeds £25,000 but does not exceed £34,459,

B is £1 for every complete £20.59 by which the household income exceeds £34,459 but does not exceed £60,032; and

(c) where the household income exceeds £60,032, no special support grant is payable.

Amount of the special support grant – current system students who are not 2008 cohort students

61.—(1) The maximum amount of special support grant available to a current system student who is not a 2008 cohort student in respect of an academic year is—

(a) in the case of a type 1 or type 3 teacher training student, £1,453;

(b) in the case of a type 2 teacher training student, £2,906;

(c) in the case of a current system student other than a type 1, type 2 or type 3 teacher training student, £2,906.

(2) A type 1 teacher training student who is not a 2008 cohort student and who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £18,360 or less, the student receives £1,453;

(b) where the household income exceeds £18,360 but does not exceed £27,819, the student receives an amount equal to $M - \left(\frac{A}{2}\right)$ where—

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,819 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £646.

(3) A type 2 teacher training student who is not a 2008 cohort student and who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £18,360 or less, the student receives £2,906;

(b) where the household income exceeds £18,360 but does not exceed £27,819, the student receives an amount equal to $M - A$ where—

M is £2,906

A is £1 for every complete £5.86 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,819 or the student opts when applying for the grant not to provide the information needed to calculate the household income, the student receives £1,292.

(4) A type 3 teacher training student who is not a 2008 cohort student who qualifies for a special support grant in respect of an academic year receives, subject to sub-paragraph (c), an amount as follows in respect of that year—

(a) where the household income is £18,360 or less, the student receives £1,453;

(b) where the household income exceeds £18,360 but does not exceed £39,333, the student receives an amount equal to $M - \left(\frac{A+B}{2}\right)$ where—

M is £1,453

A is £1 for every complete £5.86 by which the household income exceeds £18,360 but does not exceed £27,819

B is £1 for every complete £9.27 by which the household income exceeds £27,819 but does not exceed £39,333; and

(c) where the household income exceeds £39,333, no special support grant is payable.

(5) A current system student other than a 2008 cohort student or a type 1, type 2 or type 3 teacher training student who qualifies for a special support grant in respect of an academic year receives an amount as follows in respect of that year—

(a) where the household income is £18,360 or less, the student receives £2,906;

(b) where the household income exceeds £18,360 but does not exceed £27,819, the student receives an amount equal to $M - A$ where—

M is £2,906

A is £1 for every complete £5.86 by which the household income exceeds £18,360;

(c) where the household income exceeds £27,819 but does not exceed £39,333, the student receives an amount equal to $RM - A$ where—

RM is £1,292

A is £1 for every complete £9.27 by which the household income exceeds £27,819; and

(d) where the household income exceeds £39,333, no special support grant is payable.

CHAPTER 8

HIGHER EDUCATION GRANTS FOR OLD SYSTEM STUDENTS

Qualifying conditions for the higher education grant

62.—(1) An old system student qualifies in accordance with this regulation for a higher education grant in connection with the student's attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

(2) An old system student does not qualify for a higher education grant unless the student began the specified designated course on or after 1st September 2004.

(3) If an old system student does not qualify for a grant for fees in respect of an academic year of the designated course, the student cannot qualify for a higher education grant for that year unless the reason that the student does not qualify for a grant for fees is that—

(a) the year is an Erasmus year; or

(b) the designated course is an old flexible postgraduate course for the initial training of teachers.

Amount of the higher education grant

63.—(1) The maximum amount of higher education grant available in respect of an academic year is £1,000.

(2) An old system student who qualifies for a higher education grant receives an amount as follows—

(a) where the household income is £16,750 or less, the student receives £1,000;

(b) where the household income exceeds £16,750 and does not exceed £22,735, the student receives an amount equal to $M - A$ where—

M is £1,000

A is £1 for every complete £6.30 by which the household income exceeds £16,750; and

(c) where the household income exceeds £22,735, no higher education grant is payable.

PART 6

LOANS FOR LIVING COSTS

CHAPTER 1

QUALIFYING CONDITIONS

Interpretation of Part 6

64. In this Part—

(a) a "current system student with full entitlement" is a current system student other than a student with reduced entitlement;

(b) "the maintenance grant amount" is -

(i) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant not exceeding £1,292, the amount of maintenance grant payable;

(ii) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant exceeding £1,292, £1,292; and

(iii) where no maintenance grant is payable, nil.

(c) an "old system student with full entitlement" is an old system student other than a student with reduced entitlement;

(d) the "relevant date" means the first day of the first academic year of the specified designated course;

(e) a "student with reduced entitlement" is an eligible student who—

(i) does not qualify for a grant for living and other costs in respect of the academic year because of regulation 38(3)(a) or (b) or 38(5); or

(ii) opts when applying for a loan for living costs not to provide the information needed to calculate the household income;

(f) where the duration of a graduate-entry or postgraduate-level course for the initial training of teachers is only one academic year, that year is not to be treated as the final year.

Qualifying conditions for the loan for living costs – current system students

65.—(1) Subject to paragraphs (3) to (5), a current system student qualifies for a loan for living costs in connection with the student's attendance on a designated course if the student is under the age of 60 on the relevant date and—

(a) where the student begins the course on or after 1st September 2009, the designated course does not lead to an equivalent or lower qualification; or

(b) where the student began the course before 1st September 2009, the student does not have an honours degree from an institution in the United Kingdom.

(2) The condition in paragraph (1)(a) or (b) does not apply where—

(a) the designated course leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect;

(b) the designated course began before 1st September 2009 and leads to qualification as a landscape architect, landscape designer, landscape manager, town planner or town and country planner;

(c) the current system student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to the student's income or a Scottish healthcare allowance the amount of which is calculated by reference to the student's income in respect of any academic year of the course; or

(d) the current system student is on a course for the initial training of teachers.

(3) A current system student does not qualify for a loan for living costs if the only paragraph in Part 2 of Schedule 1 into which the student falls is paragraph 9.

(4) A current system student does not qualify for a loan for living costs in connection with the student's attendance on a designated course if that course is a flexible postgraduate course for the initial training of teachers which is of less than one academic year's duration.

(5) A current system student does not qualify for a loan for living costs if the student is a prisoner.

Qualifying conditions for the loan for living costs – old system students

66.—(1) Subject to paragraphs (4) to (6), an old system student who falls within paragraph (a) or (d)(i) of the definition of "old system student" in regulation 2 qualifies for a loan for living costs in connection with the student's attendance on a designated course if the student is under the age of 60 on the relevant date.

(2) Subject to paragraph (4), an old system student who falls within paragraph (b), (c) or (d)(ii) of the definition of "old system student" in regulation 2 qualifies for a loan for living costs in connection with the student's attendance on a designated course if the student meets the following conditions—

(a) is under the age of 60 on the relevant date; and

(b) does not have an honours degree from an institution in the United Kingdom.

(3) The condition in paragraph (2)(b) does not apply where—

(a) the designated course leads to qualification as a social worker, medical doctor, dentist, veterinary surgeon, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner;

(b) the old system student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to the student's income or a Scottish healthcare allowance the amount of which is calculated by reference to the student's income in respect of any academic year of the course; or

(c) the old system student is on a course for the initial training of teachers.

(4) An old system student does not qualify for a loan for living costs if the only paragraph in Part 2 of Schedule 1 into which the student falls is paragraph 9.

(5) An old system student does not qualify for a loan for living costs in connection with the student's attendance on a designated course if that course is a flexible postgraduate course for the initial training of teachers which is of less than one academic year's duration.

(6) An old system student does not qualify for a loan for living costs if the student is a prisoner.

CHAPTER 2

MAXIMUM AMOUNTS OF LOANS

General

67.—(1) The maximum amount of a loan for living costs in respect of an academic year is calculated as follows—

(a) where the eligible student is a 2008 cohort student with full entitlement, in accordance with regulation 68;

(b) where the eligible student is a current system student (other than a 2008 cohort student) with full entitlement, in accordance with regulation 69 or 70;

(c) where the eligible student is an old system student with full entitlement, in accordance with regulation 71;

(d) where the eligible student is a student with reduced entitlement, in accordance with regulation 72.

2008 cohort students with full entitlement

68.—(1) This regulation applies to a 2008 cohort student with full entitlement.

(2) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year other than the final year of a course that is not an intensive course is equal to $X-\left(Y+Z\right)$ where—

X is—

(i) for a student in category A, £3,673;

(ii) for a student in category B, £6,643;

(iii) for a student in category C, £5,653;

(iv) for a student in category D, £4,745;

Y is the maintenance grant amount;

Subject to paragraph (4), Z is £1 for every complete £9.27 by which the household income exceeds £61,062.

(3) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year that is the final year of a course that is not an intensive course is equal to $X-(Y+Z)$ where—

X is—

(i) for a student in category A, £3,319;

(ii) for a student in category B, £6,048;

(iii) for a student in category C, £4,915;

(iv) for a student in category D, £4,391;

Y is the maintenance grant amount;

Subject to paragraph (4), Z is £1 for every complete £9.27 by which the household income exceeds £61,062.

(4) Where the same household income is used to assess the amount of a statutory award for which two or more persons qualify, Z in paragraphs (2) and (3) must be divided by the number of such persons before being deducted from X.

(5) Where the maximum amount of loan for living costs calculated in accordance with this regulation is less than the minimum level for the academic year specified in regulations 101, the minimum level for the academic year is payable.

Current system students with full entitlement who are not 2008 cohort students

69. —(1) This regulation applies to a current system student with full entitlement (other than a 2008 cohort student or, where the student's contribution exceeds nil, a type 1 or type 2 teacher training student).

(2) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year other than the final year of a course that is not an intensive course is equal to $X-Y$ where—

X is—

(i) for a student in category A, £3,673;

(ii) for a student in category B, £6,643;

(iii) for a student in category C, £5,653;

(iv) for a student in category D, £4,745;

Y is the maintenance grant amount.

(3) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year that is the final year of a course that is not an intensive course is equal to $X-Y$ where—

X is—

(i) for a student in category A, £3,319;

(ii) for a student in category B, £6,048;

(iii) for a student in category C, £4,915;

(iv) for a student in category D, £4,391;

Y is the maintenance grant amount.

Type 1 and type 2 teacher training students who are not 2008 cohort students

70.—(1) This regulation applies to a current system student with full entitlement who is a type 1 or type 2 teacher training student whose contribution exceeds nil, and who is not a 2008 cohort student.

(2) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year other than the final year of a course that is not an accelerated course is —

(a) for a student in category A, £3,673;

(b) for a student in category B, £6,643;

(c) for a student in category C, £5,653;

(d) for a student in category D, £4,745.

(3) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year that is the final year of a course that is not an accelerated course is—

(a) for a student in category A, £3,319;

(b) for a student in category B, £6,048;

(c) for a student in category C, £4,915;

(d) for a student in category D, £4,391.

Old system students with full entitlement

71.—(1) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which an old system student with full entitlement qualifies in respect of an academic year other than the final year of a course that is not an intensive course is—

(a) for a student in category A, £3,673;

(b) for a student in category B, £6,643;

(c) for a student in category C, £5,653;

(d) for a student in category D, £4,745.

(2) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which an old system student with full entitlement qualifies in respect of an academic year that is the final year of a course that is not an intensive course is—

(a) for a student in category A, £3,319;

(b) for a student in category B, £6,048;

(c) for a student in category C, £4,915;

(d) for a student in category D, £4,391.

Students with reduced entitlement

72.—(1) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student with reduced entitlement qualifies in respect of an academic year of a course other than the final year of a course that is not an intensive course is—

(a) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 38(3)(a)—

(i) for a student in category A, £1,744;

(ii) for a student in category B, £3,263;

(iii) for a student in category C or D, £2,324.

(b) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 38(3)(b) or (5)—

(i) for a student in category A, £1,744;

(ii) for a student in category B, £3,263;

(iii) for a student in category C, £2,780;

(iv) for a student in category D, £2,324.

(c) where the student applies for a loan for living costs and opts not to provide the information needed to calculate the household income an amount equal to $X - Y$ where—

X is—

(i) for a student in category A, £2,755;

(ii) for a student in category B, £4,982;

(iii) for a student in category C, £4,240;

(iv) for a student in category D, £3,559;

Y is the amount specified in paragraph (3).

(2) Subject to Chapter 4 of this Part, the maximum amount of loan for living costs for which a student with reduced entitlement qualifies in respect of an academic year that is the final year of a course that is not an intensive course is—

(a) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 38(3)(a)—

(i) for a student in category A, £1,324;

(ii) for a student in category B, £2,498;

(iii) for a student in category C or D, £1,811;

(b) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 38(3)(b) or (5)—

(i) for a student in category A, £1,324;

(ii) for a student in category B, £2,498;

(iii) for a student in category C, £2,031;

(iv) for a student in category D, £1,811;

(c) where the student applies for a loan for living costs and opts not to provide the information needed to calculate the household income an amount equal to $X - Y$ where—

X is—

(i) for a student in category A, £2,489;

(ii) for a student in category B, £4,536;

(iii) for a student in category C, £3,686;

(iv) for a student in category D, £3,293;

Y is the amount specified in paragraph (3).

(3) The specified amount is—

(a) £646 where the student is a type 1 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £646;

(b) £1,292 where the student is a type 2 teacher training student who opts not to provide the information needed to calculate the household income when applying for a maintenance grant and who qualifies for a maintenance grant of £1,292;

(c) nil where the student is not a type 1 or type 2 teacher training student.

CHAPTER 3

LONG COURSES LOAN

Long courses loan

73.—(1) A 2008 cohort student qualifies for a long courses loan in connection with the student's attendance on a designated course if the student—

(a) qualifies for a loan for living costs under this Part;

(b) is required to attend the course for a period exceeding 30 weeks and 3 days in an academic year; and

(c) is not a student with reduced entitlement.

(2) The maximum amount of the long courses loan is $X + Y$ where—

X is calculated in accordance with paragraph (3),

Y is calculated in accordance with paragraph (4);

(3) Where a 2008 cohort student is required to attend a course for a period exceeding 30 weeks and 3 days in an academic year, the number of weeks or part weeks of attendance in the academic year beyond 30 weeks and 3 days is multiplied by the relevant amount in paragraph (5);

(4) Where a 2008 cohort student attends a course for a period of not less than 45 weeks in any continuous period of 52 weeks, the total number of weeks in the 52-week period during which the student does not attend is multiplied by the relevant amount in paragraph (5);

(5) The amount is—

(i) for a student in category A, £54;

(ii) for a student in category B, £106;

(iii) for a student in category C, £115;

(iv) for a student in category D, £83.

(6) A deduction from the amount of long courses loan calculated in accordance with this regulation may be made in accordance with Part 9.

CHAPTER 4

MISCELLANEOUS

Quarters in respect of which the loan for living costs is payable

74. —(1) Subject to regulation 77, the loan for living costs and the long courses loan are payable in respect of three quarters of the academic year.

(2) The loan for living costs is not payable—

(a) in the case of a compressed degree student, in respect of the quarter nominated by the Secretary of State;

(b) in any other case, in respect of the quarter in which, in the opinion of the Secretary of State, the longest of any vacation occurs.

(3) The long courses loan is not payable in respect of the quarter nominated by the Secretary of State.

Students falling into more than one category

75. Where an eligible student falls into more than one of the categories set out in regulation 82 in the course of the academic year—

(a) the maximum amount of loan for living costs for the academic year is the aggregate of the maximum amount of loan for living costs for each quarter in respect of which the loan for living costs is payable;

(b) the maximum amount of loan for living costs for each such quarter is one third of the maximum amount of loan for living costs which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year;

(c) the maximum amount of long courses loan for the academic year is the aggregate of the maximum amount of long courses loan for each quarter in respect of which the long courses loan is payable;

(d) the maximum amount of long courses loan for each such quarter is one third of the maximum amount of long courses loan which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year; and

(e) the category which applies to a quarter is—

(i) the category into which the student falls for the longer or longest period in that quarter; or

(ii) if the student falls into more than one category for an equal period in that quarter, the category with the higher or highest rate of loan for living costs for the academic year.

Students residing with parents

76.—(1) Where an eligible student ("X") resides at X's parents' home and the Secretary of State is satisfied that in all the circumstances X's parents by reason of age, incapacity or otherwise cannot reasonably be expected to support X and that it would be appropriate for the amount of loan for living costs or long courses loan payable to a student in a category other than category A to apply in X's case, X must be treated as if X were not residing at X's parents' home for the purposes of this Part.

(2) Paragraph (1) does not apply to an eligible student who begins the specified designated course on or after 1st September 2004.

Students becoming eligible in the course of an academic year

77.—(1) Where one of the events listed in paragraph (2) occurs in the course of an academic year, a student may qualify for a loan for living costs in respect of such quarters in respect of which a loan for living costs is payable as begin after the relevant event occurs.

(2) The events are—

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

(b) the student, or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;

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

(d) the student acquires the right of permanent residence;

(e) the student becomes the child of a Turkish worker;

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

(g) the student becomes the child of a Swiss national.

(3) An eligible student to whom paragraph (1) applies does not qualify for a loan for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The maximum amount of loan for living costs payable is the aggregate of the maximum amount of loan for living costs for each quarter in respect of which the student qualifies for the loan for living costs under this regulation.

(5) The maximum amount of loan for living costs for each quarter is one third of the maximum amount of loan for living costs which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year.

(6) The maximum amount of long courses loan payable is the aggregate of the maximum amount of long courses loan for each quarter in respect of which the student qualifies for the long courses loan under this regulation.

(7) The maximum amount of long courses loan for each quarter is one third of the maximum amount of long courses loan which would apply for the academic year if the student fell into the category which applies to the relevant quarter for the duration of the academic year.

Students who are treated as in attendance on a course

78.—(1)A student to whom this regulation applies is treated as being in attendance on the designated course for the purpose of qualifying for the loan for living costs or the long courses loan.

(2) This regulation applies to—

(a) a compressed degree student;

(b) a disabled student who—

(i) is not a compressed degree student; and

(ii) is undertaking a designated course in the United Kingdom but is not in attendance because the student is unable to attend for a reason which relates to the student's disability.

Increases in maximum amount

79.—(1) This regulation does not apply in the case of a 2008 cohort student or a student with reduced entitlement.

(2) Where an eligible student is required to attend the student's course for a period exceeding 30 weeks and 3 days in an academic year, the maximum amount of loan for living costs specified in Chapter 2 of this Part is increased for each week or part week of attendance in the academic year beyond 30 weeks and 3 days by the relevant amount in paragraph (4).

(3) Where an eligible student attends the student's course for a period of not less than 45 weeks in any continuous period of 52 weeks, the maximum amount of loan for living costs specified in Chapter 2 of this Part is increased for each week in the 52-week period during which the student did not attend by the relevant amount in paragraph (4).

(4) The amount is—

(a) for a student in category A, £54;

(b) for a student in category B, £106;

(c) for a student in category C, £115;

(d) for a student in category D, £83.

Deductions from loans for living costs

80.—(1) A deduction from the amount of loan for living costs calculated under this Part in respect of a current system student with full entitlement who is not a 2008 cohort student or an old system student with full entitlement may be made in accordance with Part 9.

(2) There is no deduction under Part 9 from the amount of loan for living costs calculated under this Part in respect of a 2008 cohort student or a student with reduced entitlement.

Applying for an additional amount of loan for living costs or long courses loan

81.—(1) An eligible student may apply to borrow an additional amount of loan for living costs or long courses loan where—

(a) the Secretary of State determines that the maximum amount of loan for living costs or long courses loan in relation to an academic year should be increased (including an increase from nil) as a result of a reassessment of the student's contribution or otherwise; and

(b) the Secretary of State considers that the increase in the maximum amount of the loan or loans in question does not result from the eligible student—

(i) failing to provide information promptly which might affect the student's ability to qualify for the loan or loans in question or the amount of loan or loans in question for which the student qualifies; or

(ii) providing information that is inaccurate in any material particular.

(2) The additional amount under paragraph (1) is an amount which when added to the amount already applied for does not exceed the increased maximum.

(3) Where an eligible student has applied for a loan for living costs or long courses loan of less than the maximum amount to which the student is entitled in relation to the academic year, the student may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in the student's case.

Categories of student

82. In this Part—

(a) a student ("X") is in category A if—

(i) X resides at X's parents' home while attending the designated course; or

(ii) X began the current course before 1st September 2009 and is a member of a religious order who resides in a house of that order;

(b) a student ("Y") is in category B if Y is not in category A and Y attends one or more of the following—

(i) a course at the University of London;

(ii) a course at an institution which requires attendance for at least half the time in aggregate of any quarter of the course in the academic year at a site wholly or partly within the area comprising the City of London and the former Metropolitan Police District; or

(iii) a sandwich course at an institution which requires the eligible student to undertake work experience or a combination of work experience and study provided that "Y" undertakes such work experience or combination of work experience and study for at least half the time in aggregate of any quarter of the course in the academic year at a site or sites wholly or partly within the area comprising the City of London and the former Metropolitan Police District;

(c) a student is in category C if the student is not in category A and—

(i) attends an overseas institution as part of the student's course; or

(ii) attends the Institute;

(d) a student is in category D if the student is not in categories A to C.

PART 7

COLLEGE FEE LOANS

General

83. An eligible student or person treated as an eligible student qualifies for a college fee loan in connection with the student's attendance on a qualifying course in accordance with this Part.

Qualifying conditions

84.—(1)Subject to paragraphs (2) and (3), an eligible student or person treated as an eligible student qualifies for a college fee loan in connection with the student's attendance on a qualifying course if the student—

(a) has an honours degree from an institution in the United Kingdom;

(b) is taking a qualifying course which the student—

(i) began on or after 1st September 2006 and on which the student is continuing after 31st August 2009; or

(ii) begins on or after 1st September 2009;

(c) is a member of a college or a permanent private hall of the University of Oxford or a member of a college of the University of Cambridge; and

(d) was under the age of 60 on the first day of the first academic year of the qualifying course.

(2) An eligible student who falls within paragraph 9 of Part 2 of Schedule 1 does not qualify for a college fee loan under this Part if the student is ordinarily resident in Wales or Northern Ireland.

(3) An eligible student who falls within paragraph 9 of Part 2 of Schedule 1 and who is ordinarily resident in Scotland does not qualify for a college fee loan if the student is settled in the United Kingdom other than by reason of having acquired the right of permanent residence or if the student is the family member of such a person.

Persons to be treated as eligible students

85. A person is a "person treated as an eligible student" if—

(a) none of the circumstances in regulation 5(3) applies to that person; and

(b) either—

(i) that person would have fallen within paragraph 3, 6, 7, 10 or 11 of Part 2 of Schedule 1 if any requirement in those paragraphs to be ordinarily resident in England at a particular time had been a requirement to be ordinarily resident in Scotland at that time or if any requirement to be working or self-employed in England had been a requirement to be working or self-employed in Scotland; or

(ii) that person is settled in the United Kingdom by virtue of a right of permanent residence and would have fallen within paragraph 8 of Part 2 of Schedule 1 if the requirement in that paragraph to be ordinarily resident in England at a particular time had been a requirement to be ordinarily resident in Scotland.

Disabled students

86. A disabled student who is undertaking a qualifying course in the United Kingdom but who is not in attendance because the student is unable to attend for a reason which relates to that student's disability is treated as being in attendance on the qualifying course for the purpose of qualifying for the college fee loan.

Students becoming eligible during the course of an academic year

87.—(1)Where one of the events listed in paragraph (2) occurs in the course of an academic year—

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

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

(2) The relevant events are—

(a) the student, or the student's spouse, civil partner or the student's parent is recognised as a refugee or becomes a person with leave to enter or remain;

(b) a state accedes to the European Community and the student is a national of that state or is the family member (as defined in Part 1 of Schedule 1) of a national of that state;

(c) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national or would have become a family member of an EC national if the requirement to be working or self-employed in England had been a requirement to be working or self-employed in Scotland;

(d) the student acquires the right of permanent residence;

(e) the student becomes the child of a Turkish worker;

(f) the student becomes a person described in paragraph 6(1)(a) of Schedule 1 or would have become such a person if the requirement to be ordinarily resident in England and the requirement to be working or self-employed in England in paragraph 6 of Schedule 1 had been requirements to be ordinarily resident in Scotland or working or self-employed in Scotland;

(g) the student becomes the child of a Swiss national.

Availability of college fee loans

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

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

90. For the purposes of this Part, "standard academic year" means an academic year of the qualifying course that would be taken by a person who does not repeat any part of the course and who enters the course at the same point as the qualifying student.

Amount of college fee loan

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

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

Transfers

92. Despite regulation 8, where a qualifying student transfers from one qualifying course to another qualifying course—

(a) the Secretary of State must transfer the student's status as a qualifying student to the other course on the request of the student unless the period of eligibility has terminated;

(b) subject to paragraph (c), if the student transfers before the end of the academic year after applying for a college fee loan, the amount applied for is paid to the relevant college or permanent private hall in respect of the qualifying course to which the student transfers provided that the conditions in regulation 110 are met and the student cannot qualify for another college fee loan in respect of that academic year;

(c) if the student transfers after the college fee loan is paid and before the end of the academic year, the student cannot apply for another college fee loan in connection with the academic year of the qualifying course to which the student transfers.

PART 8

INTEREST AND INSOLVENCY

Interest

93.—(1) Subject to paragraph (2), loans bear interest at the rate which will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980(**a**) equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March 2008 and that index so published for March 2009.

(2) If the rate referred to in paragraph (1) exceeds the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974(**b**) loans bear interest at the rate so specified.

(3) Interest is calculated on the principal outstanding daily and is added to the principal monthly.

(4) The index of prices to which the Secretary of State is required by section 22(8) of the 1998 Act(**c**) to have regard in prescribing the rate of interest which loans bear is the retail prices all items index mentioned in paragraph (1).

Insolvency

94.—(1) In England and Wales—

(a) there shall not be treated as part of a bankrupt's estate or claimed for the bankrupt's estate under section 307 or 310 of the Insolvency Act 1986(**d**) any sum payable to an eligible student by way of a loan and which the eligible student receives or is entitled to receive after the commencement of the bankruptcy, whether the entitlement arises before or after the commencement of the bankruptcy; and

(b) there shall not be included in a person's bankruptcy debts any debt or liability to which that person is or may become subject in respect of any sum payable to an eligible student by way of a loan and which that person receives or is entitled to receive—

(i) in the case of a bankruptcy commencing before 1st September 2004, after the commencement of the bankruptcy; or

---

(**a**) S.I. 1980/51, amended by S.I. 1989/596 and S.I. 1999/3177.
(**b**) 1974 c. 39.
(**c**) Section 22(8) was amended by the Higher Education Act 2004 (c. 8), Schedule 7.
(**d**) 1986 c. 45; section 307 was amended by the Enterprise Act 2002 (c. 40), section 261. Section 310 was amended by the Pensions Act 1995 (c. 26), section 122 and Schedule 3, paragraph 15, the Welfare Reform and Pensions Act 1999 (c. 30), section 18 and Schedule 2, paragraph 2 and the Enterprise Act 2002, sections 259 and 278 and Schedule 26.

(ii) in the case of a bankruptcy commencing on or after 1st September 2004, before or after the commencement of the bankruptcy.

(2) In Northern Ireland—

(a) there shall not be treated as part of a bankrupt's estate or claimed for the bankrupt's estate under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989(**a**) any sum payable to an eligible student by way of a loan and which the eligible student receives or is entitled to receive after the commencement of the bankruptcy, whether the entitlement arises before or after the commencement of the bankruptcy; and

(b) there shall not be included in a person's bankruptcy debts any debt or liability to which that person is or may become subject in respect of any sum payable to an eligible student by way of loan and which that person receives or is entitled to receive—

(i) in the case of a bankruptcy commencing before 1st March 2005, after the commencement of the bankruptcy; or

(ii) in the case of a bankruptcy commencing on or after 1st March 2005, before or after the commencement of the bankruptcy.

(3) In this regulation, "loan" means a loan pursuant to regulations made by the Secretary of State, the National Assembly for Wales or the Welsh Ministers under section 22 of the 1998 Act, including the interest on the loan and any penalties or charges incurred in connection with it.

PART 9

FINANCIAL ASSESSMENT

Calculation of contribution

95.—(1) An eligible student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 4.

(2) For the purposes of the exercise of the Secretary of State's functions under the 1998 Act and regulations made under it the Secretary of State may require an eligible student to provide from time to time such information as the Secretary of State considers necessary as to the income of any person whose means are relevant to the assessment of the student's contribution.

Application of contribution – 2008 cohort students

96. In the case of a 2008 cohort student, the Secretary of State must apply the contribution in accordance with regulation 99.

Application of contribution – current system students who are not 2008 cohort students

97. In the case of a current system student who is not a 2008 cohort student, the Secretary of State must apply the contribution in accordance with regulation 100.

Application of contribution – old system students

98.—(1) Subject to paragraph (3), where the basic amount of the grant for fees has been calculated in accordance with regulation 31(1) or 32(1), to determine the actual amount of grant for fees that is payable, the Secretary of State must first apply the contribution to reduce the basic amount of the grant for fees.

(2) If the contribution is not extinguished under paragraph (1), the Secretary of State must apply the remainder in accordance with regulation 100.

(**a**) S.I. 1989/2405 (N.I. 19); Article 283 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), Schedule 1, paragraph 11.

(3) Where the course is a course for the initial training of teachers (other than a course for a first degree), there is no deduction from the basic amount of the grant for fees under this regulation and the contribution is applied in accordance with regulation 100.

(4) Where the basic amount of the grant for fees has been calculated in accordance with regulation 31(2) or regulation 32(2) and one of the cases set out in regulation 24(3)(b) or (d) applies, to determine the actual amount of the grant for fees that is payable, the Secretary of State must—

(a) first, apply the contribution to reduce the basic amount of the grant for fees;

(b) second, if the contribution is not extinguished, deduct an amount equal to the basic amount of the grant for fees from what is left of the contribution reducing the remainder of the contribution to no less than nil; and

(c) third, if the contribution is still not extinguished, apply the remainder in accordance with regulation 100.

(5) In the case of an Erasmus year, the Secretary of State must apply the amount by which the contribution exceeds £1,285 in accordance with regulation 100.

(6) Where none of the circumstances in paragraphs (1) to (5) apply, the contribution is applied in accordance with regulation 100.

Order of application – 2008 cohort students

99. The contribution or the remainder of the contribution, as the case may be, is to be applied as follows—

(a) first, to reduce the amount of adult dependants' grant calculated in accordance with regulation 47;

(b) second, to reduce the childcare grant calculated in accordance with regulation 47;

(c) third, to reduce the parents' learning allowance calculated in accordance with regulation 47 (except the first £50 of the allowance);

(d) fourth, to reduce the long courses loan calculated in accordance with Chapter 3 of Part 6;

(e) fifth, to reduce the grant for travel calculated in accordance with Chapter 5 of Part 5.

Order of application – other eligible students

100. The contribution or the remainder of the contribution, as the case may be, is to be applied as follows—

(a) first, to reduce the amount of adult dependants' grant calculated in accordance with regulation 47;

(b) second, to reduce the childcare grant calculated in accordance with regulation 47;

(c) third, to reduce the parents' learning allowance calculated in accordance with regulation 47 (except the first £50 of the allowance);

(d) fourth, to reduce the loan for living costs for which the eligible student (other than a student with reduced entitlement) qualifies under Part 6 to no less than the minimum level for the academic year specified in regulation 101;

(e) fifth, to reduce the grant for travel calculated in accordance with Chapter 5 of Part 5.

Minimum level of loan for living costs

101.—(1) Subject to paragraphs (2) and (3), the "minimum level for the academic year" in regulation 68(5) and 100(d) is—

(a) £2,755, in the case of a student in category A;

(b) £4,982, in the case of a student in category B;

(c) £4,240, in the case of a student in category C;

(d) £3,559, in the case of a student in category D.

(2) Subject to paragraph (3), where the academic year in question is the final year of a course other than an intensive course, the "minimum level for the academic year" is—

(a) £2,489, in the case of a student in category A;

(b) £4,536, in the case of a student in category B;

(c) £3,686, in the case of a student in category C;

(d) £3,293, in the case of a student in category D.

(3) Where different categories apply for different quarters of the academic year, the minimum levels in paragraphs (1) and (2) are the aggregate of the amounts determined under paragraph (4) for each of the quarters in respect of which a loan is payable.

(4) The amount determined for each quarter is one third of the amount in paragraph (1) or (2) which corresponds to the rate applicable for the quarter.

(5) The rate applicable for a quarter is determined in accordance with regulation 75.

(6) Categories A to D have the meaning given in regulation 82.

Amount of loan for living costs payable to certain type 1 and type 2 teacher training students

102.—(1)This regulation applies to type 1 and type 2 teacher training students who qualify for a maintenance grant and whose contribution exceeds nil.

(2) This regulation does not apply to 2008 cohort students.

(3) The loan for living costs payable in respect of an academic year to a student to whom this regulation applies is calculated as follows—

$$A - B$$

where

A is the amount of loan for living costs left after applying the contribution in accordance with this Part; and

B is the amount of maintenance grant payable to the student.

PART 10

PAYMENTS

CHAPTER 1

INTERPRETATION OF PART 10

Interpretation

103. In this Part—

(a) "attendance confirmation" means—

(i) confirmation from the academic authority that the student has enrolled for the academic year where—

(aa) the student is applying for support in connection with a designated course for the first time;

(bb) the student has a disability; and

(cc) the student is undertaking the course but not attending (regardless of whether the reason for not attending relates to the student's disability);

(ii) confirmation from the academic authority that the student has been present at the institution and begun to attend the course where—

(aa) the student is applying for support in connection with a designated course for the first time;

(bb) the student's status as an eligible student has not been transferred to the course from another designated course at the same institution; and

(cc) sub-paragraph (i)(cc) does not apply;

(iii) confirmation from the academic authority that the student has enrolled for the academic year where—

(aa) the student is applying for support in connection with a designated course other than for the first time; or

(bb) the student is applying for support in connection with a designated course for the first time after the student's status as an eligible student has been transferred to that course from another course at the same institution;

(b) "payment period" means a period in respect of which the Secretary of State pays the relevant support under Part 5 or Part 6 or would have paid such support if the eligible student's period of eligibility had not terminated.

CHAPTER 2

PAYMENT OF GRANTS FOR FEES

Payment of grants for fees

104.—(1) The Secretary of State must not pay the grant for fees for which a student qualifies until the Secretary of State has received a request for payment from the academic authority.

(2) Payment must be made to the academic authority—

(a) not before the expiry of a period of three months beginning with the first day of the academic year; and

(b) not later than 10 weeks after the expiry of the period in sub-paragraph (a), or promptly after a request for payment has been received, if that is later.

(3) Where assessment of the student's contribution or other matters have delayed the final calculation of the amount of grant for fees for which the student qualifies, the Secretary of State may make a provisional assessment and payment.

(4) No payment of the grant for fees can be made in respect of a designated course if—

(a) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend or, in the case of a student who is treated as in attendance under regulation 19, undertake the course; and

(b) the academic authority has determined or agreed that the student will not begin attending or, as the case may be, undertaking in the United Kingdom the course again during the academic year in respect of which the fees are payable or at all.

CHAPTER 3

PAYMENT OF GRANTS FOR LIVING AND OTHER COSTS

Payment of grants for living and other costs

105.—(1)The Secretary of State may pay support under Part 5 in instalments.

(2) Subject to paragraph (3), the Secretary of State may pay support under Part 5 at such times as the Secretary of State considers appropriate.

(3) An academic authority is required to send an attendance confirmation to the Secretary of State.

(4) The Secretary of State must not pay the first instalment or, where it has been determined not to pay support under Part 5 by instalments, make any payment of support under that Part to the eligible student before the Secretary of State has received the attendance confirmation unless an exception applies.

(5) An exception applies if—

(a) a disabled students' allowance is payable in which case that particular grant may be paid before the Secretary of State has received an attendance confirmation; or

(b) the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.

(6) Payments of support under Part 5 are to be made in such manner as the Secretary of State considers appropriate and the Secretary of State may make it a condition of entitlement to payment that the eligible student must provide the Secretary of State with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(7) Where a final assessment cannot be made on the basis of the information provided by the student, the Secretary of State may make a provisional assessment and payment of support under Part 5.

(8) Subject to paragraph (9), no support under Part 5 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances for support to be paid in respect of that day.

(9) Paragraph 8 does not apply in respect of disabled student's allowance.

(10) In deciding whether it would be appropriate for support to be due under paragraph (8) the circumstances to which the Secretary of State must have regard include the financial hardship not paying the support would cause and whether not paying the support would affect the student's ability to continue the course.

(11) No support under Part 5 in respect of the current course is due in respect of any payment period beginning after an eligible student's period of eligibility terminates.

(12) Where an eligible student's period of eligibility terminates on or after the relevant date, the Secretary of State must determine—

(a) the amount of each grant for living and other costs for which the student qualifies that would be payable in respect of the relevant payment period if the eligible student's period of eligibility had not terminated (the "full amount"); and

(b) how much of the full amount is due in respect of the period which runs from the first day of the relevant payment period up to and including the day on which the eligible student's period of eligibility terminated (the "partial amount").

(13) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(14) If the Secretary of State has made a payment of grant for living and other costs in respect of the relevant payment period before the point in that period at which the eligible student's period of eligibility terminated and that payment exceeds the partial amount of that grant—

(a) the Secretary of State may treat the excess as an overpayment of that grant; or

(b) if the Secretary of State considers that it is appropriate to do so the Secretary of State may extend the student's period of eligibility in respect of that grant until the end of the relevant payment period and determine that the full amount of that grant is due in respect of that payment period.

(15) Subject to paragraph (16), if a payment of a grant for living and other costs in respect of the relevant payment period is due to be made or is made after the eligible student's period of eligibility has terminated, the amount of that grant due is the partial amount unless the Secretary of State considers it appropriate to extend the period of eligibility in respect of that grant until the end of the relevant payment period and to determine that the full amount of that grant is due in respect of that payment period.

(16) Paragraph (15) does not apply to a payment of the disabled students' allowance in respect of specialist equipment.

(17) No support under Part 5 is due in respect of a payment period during any part of which an eligible student is absent from the course, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(18) In deciding whether it would be appropriate for support to be due under paragraph (17) the circumstances to which the Secretary of State must have regard include the reasons for the student's absence, the length of the absence and the financial hardship which not paying the support would cause.

(19) An eligible student is not to be considered absent from the course if the student is unable to attend due to illness and the student's absence has not exceeded 60 days.

(20) Where, after the Secretary of State has made any payment of support under Part 5 or Part 6, the Secretary of State makes a determination of the amount of a grant for living and other costs for which the student qualifies either for the first time or by way of revision of a provisional or other determination of that amount—

(a) if the determination increases the amount of that grant for which the student qualifies the Secretary of State must pay the additional amount in such instalments (if any) and at such times as the Secretary of State considers appropriate;

(b) if the determination decreases the amount of that grant for which the student qualifies the Secretary of State must subtract the amount of the decrease from the amount of that grant which remains to be paid;

(c) if the amount of the decrease is greater than the amount of that grant remaining to be paid the latter amount is reduced to nil and the balance subtracted from any other grant for living and other costs for which the student qualifies in respect of the academic year;

(d) any remaining overpayment is recoverable in accordance with Chapter 5 of this Part.

CHAPTER 4

PAYMENT OF LOANS

General

106.—(1) Subject to paragraph (2) —

(a) fee loans and fee contribution loans are payable in accordance with regulation 109;

(b) college fee loans are payable in accordance with regulation 110;

(c) loans for living costs and long courses loans are payable in accordance with regulation 111;

(2) Regulations 107 and 108 apply in respect of the payment of all loans.

Provision of United Kingdom national insurance number

107.—(1)The Secretary of State may make it a condition of entitlement to payment of any loan that the eligible or qualifying student must provide the Secretary of State with the student's United Kingdom national insurance number.

(2) Where the Secretary of State has imposed a condition under paragraph (1), the Secretary of State must not make any payment of the loan to the eligible or qualifying student before the Secretary of State is satisfied that the student has complied with that condition.

(3) Despite paragraph (2), the Secretary of State may make a payment of loan to an eligible or qualifying student if the Secretary of State is satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the eligible or qualifying student having complied with the condition imposed under paragraph (1).

Information requirements

108.—(1)The Secretary of State may at any time request from an applicant, eligible student or qualifying student information that the Secretary of State considers is required to recover a loan.

(2) The Secretary of State may at any time require an applicant, eligible student or qualifying student to enter into an agreement to repay a loan by a particular method.

(3) The Secretary of State may at any time request from an applicant, eligible student or qualifying student sight of their valid national identity card, valid passport issued by the state of which they are a national or their birth certificate.

(4) Where the Secretary of State has requested information under this regulation, the Secretary of State may withhold any payment of a loan until the person provides what has been requested or provides a satisfactory explanation for not complying with the request.

(5) Where the Secretary of State has requested an agreement as to the method of repayment under this regulation, the Secretary of State may withhold any payment of a loan until the person provides what has been requested.

Payment of fee loans and fee contribution loans

109.—(1)The Secretary of State must pay the fee loan or fee contribution loan for which an eligible student qualifies to an institution to which the student is liable to make payment.

(2) The Secretary of State may pay the fee loan or fee contribution loan in instalments.

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

(a) the Secretary of State has received a request for payment from the academic authority; and

(b) a period of three months beginning with the first day of the academic year has expired.

(4) Where assessment of an old system student's contribution or other matters have delayed the final calculation of the amount of fee contribution loan for which the student qualifies, the Secretary of State may make a provisional assessment and payment.

(5) No payment of fee loan or fee contribution loan can be made in respect of a designated course if—

(a) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend or, in the case of a student treated as in attendance under regulation 19, undertake the course; and

(b) the academic authority has determined or agreed that the student will not begin attending or, as the case may be, undertaking in the United Kingdom the course again during the academic year in respect of which the fees are payable or at all.

Payment of college fee loans

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

(2) The Secretary of State must pay the college fee loan in a single instalment.

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

(a) the Secretary of State has received a request for payment from the college or permanent private hall; and

(b) a period of three months beginning with the first day of the academic year has expired.

(4) A college or permanent private hall is required to send an attendance confirmation to the Secretary of State.

(5) The Secretary of State must not pay the college fee loan until the Secretary of State has received an attendance confirmation from the relevant college or permanent private hall unless the Secretary of State determines that owing to exceptional circumstances, it would be appropriate to make a payment without receiving that confirmation.

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

(a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend or, in the case of a student who is treated as in attendance under regulation 86, undertake the course; and

(b) the college or permanent private hall has determined or agreed that the student will not begin attending or, as the case may be, undertaking the course in the United Kingdom again during the academic year in respect of which the college fees are payable or at all.

Payment of loans for living costs and long courses loans

111.—(1)The Secretary of State may pay support under Part 6 in instalments.

(2) Subject to paragraph (4), the Secretary of State may pay support under Part 6 at such times as the Secretary of State considers appropriate.

(3) An academic authority is required to send an attendance confirmation to the Secretary of State.

(4) The Secretary of State must not pay the first instalment, or where it has been determined not to pay support under Part 6 by instalments, make any payment of support under Part 6 to the eligible student before the Secretary of State has received an attendance confirmation from the relevant academic authority unless an exception applies.

(5) An exception applies if the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.

(6) Where a final assessment cannot be made on the basis of the information provided by the student, the Secretary of State may make a provisional assessment and payment of support under Part 6.

(7) Payments of support under Part 6 are to be made in such manner as the Secretary of State considers appropriate and the Secretary of State may make it a condition of entitlement to payment that the eligible student must provide the Secretary of State with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(8) Where the Secretary of State has made any payment of support under Part 5 or under Part 6 and a student who qualifies for a loan for living costs or a long courses loan under Part 6 applies for either loan or applies for an additional amount of either loan in respect of an academic year, the Secretary of State may pay that loan (or loans, as the case may be) or that additional amount of loan (or loans, as the case may be) in such instalments (if any) and at such times as the Secretary of State considers appropriate as soon as is reasonably practicable after a satisfactory application has been received.

(9) Subject to paragraph (10), no support under Part 6 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances for support to be paid in respect of that day.

(10) In deciding whether it would be appropriate for support to be due under paragraph (9) the circumstances to which the Secretary of State must have regard include the financial hardship which not paying the support would cause and whether not paying the support would affect the student's ability to continue the course.

(11) No support under Part 6 in respect of the current course is due in respect of any payment period beginning after an eligible student's period of eligibility terminates.

(12) No support under Part 6 is due in respect of a payment period during part of which an eligible student is absent from the course, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(13) In deciding whether it would be appropriate for support to be due under paragraph (12) the circumstances to which the Secretary of State must have regard include the reasons for the student's absence, the length of the absence and the financial hardship which not paying the support would cause.

(14) An eligible student is not to be considered absent from the student's course if the student is unable to attend due to illness and the student's absence has not exceeded 60 days.

(15) Where, after the Secretary of State has made any payment of support under Part 6 for which a student qualifies in respect of an academic year, the Secretary of State makes a determination that the amount of loan for living costs or long courses loan for which the student qualifies is less than the amount previously determined either by way of a revision of a provisional assessment or otherwise—

(a) the Secretary of State must subtract from any amount of the loan in question which remains to be paid such amount as is necessary to ensure that the student does not borrow an amount of the loan in question which is greater than that for which the student qualifies;

(b) if the amount to be subtracted is greater than the amount of the loan in question remaining to be paid, the amount of that loan remaining to be paid is reduced to nil;

(c) any remaining overpayment is recoverable in accordance with Chapter 5 of this Part.

CHAPTER 5

OVERPAYMENTS

Overpayments of fee support

112. Any overpayment of fee support is recoverable by the Secretary of State from the academic authority.

Overpayments of college fee loan

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

Overpayments of support payable under Part 5 or Part 6

114.—(1) An eligible student must, if so required by the Secretary of State, repay any amount paid to the student under Part 5 or 6 which for whatever reason exceeds the amount of support to which the student is entitled under Part 5 or 6.

(2) The Secretary of State must recover an overpayment of any grant for living and other costs unless the Secretary of State considers it is not appropriate to do so.

(3) The methods of recovery are—

(a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(4) A payment of any grant for living and other costs made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(5) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(6) In the circumstances in paragraph (7) or (8), there is an overpayment of the disabled students' allowance unless the Secretary of State decides otherwise.

(7) The circumstances are—

(a) the Secretary of State applies all or part of the disabled students' allowance to the purchase of specialist equipment on behalf of the eligible student;

(b) the student's period of eligibility terminates after the relevant date; and

(c) the equipment has not been delivered to the student before the student's period of eligibility terminates.

(8) The circumstances are—

(a) the eligible student's period of eligibility terminates after the relevant date; and

(b) a payment of the disabled students' allowance in respect of specialist equipment is made to the student after the student's period of eligibility terminated.

(9) Where there is an overpayment of the disabled students' allowance, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if the Secretary of State considers it is appropriate to do so.

(10) Any overpayment of a loan for living costs or a long courses loan in respect of any academic year may be recovered if in the opinion of the Secretary of State—

(a) the overpayment is a result of a failure of the student to provide promptly information which might affect whether the student qualifies for the loan in question or the amount of the loan in question for which the student qualifies;

(b) any information which the student has provided is inaccurate in a material particular; or

(c) the student has failed to provide information which the Secretary of State considers to be material in the context of the recovery of the loan.

(11) Where an overpayment of a loan for living costs or a long courses loan is recoverable under paragraph (10), it may be recovered in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

(a) by subtracting the overpayment from any amount of the loan in question payable to the student from time to time;

(b) by taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(12) Where there has been an overpayment of a loan for living costs or long courses loan which is not recoverable under paragraph (10), the Secretary of State may subtract the overpayment from any amount of the loan in question payable to the student from time to time.

PART 11

SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES

Eligible distance learning students

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

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

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

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

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

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(**a**);

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

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

(d) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support; or

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

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

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

(b) there has been bestowed on, or paid, to the person in connection with the distance learning course a health care bursary the amount of which is calculated by reference to the person's income;

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

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

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

(a) before 25th September 1991; and

(b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.

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

(a) paragraphs (2) and (3) do not apply to that person; and

(b) that person is an eligible distance learning student for the purposes of this Part.

(9) The conditions in this paragraph are—

(a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the current designated distance learning course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(b) the person was not ordinarily resident in Wales on the first day of the current designated distance learning course; and

(c) the person's status as an eligible distance learning student has not terminated.

(10) The conditions in this paragraph are—

(a) the Secretary of State has previously determined that the person is—

(i) an eligible student in connection with a designated course;

(ii) an eligible distance learning student in connection with a designated distance learning course other than the current distance learning course; or

(iii) an eligible part-time student in connection with a designated part-time course;

(b) the person's status as an eligible student, eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current designated distance learning course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;

(c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and

---

(**a**) S.S.I. 2007/151, amended by S.S.I. 2007/503.

(d) the person's status as an eligible distance learning student has not terminated.

(11) Where—

(a) the Secretary of State determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which A's status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of A's spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002(**a**)),

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

(12) Where—

(a) the Secretary of State determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which A's status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

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

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

(a) more than one designated distance learning course;

(b) a designated distance learning course and a designated course;

(c) a designated distance learning course and a designated part-time course;

(d) a designated distance learning course and a designated postgraduate course.

Students becoming eligible during the course of the academic year

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

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

---

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

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

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

(a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and

(b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

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

(a) a student may qualify for disabled distance learning students' allowance in respect of that academic year in accordance with this Part; and

(b) disabled distance learning students' allowance is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The events are—

(a) the student's course becomes a designated distance learning course;

(b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;

(c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;

(d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;

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

(f) the student acquires the right of permanent residence;

(g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;

(h) the student becomes the child of a Swiss national; or

(i) the student becomes the child of a Turkish worker.

Designated distance learning courses

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

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

(a) the course is mentioned in Schedule 2 other than a course for the initial training of teachers;

(b) the course is a full-time course;

(c) the course is of at least one academic year's duration; and

(d) students undertaking the course in the United Kingdom are not required to be in attendance on it by the institution or institutions providing the course.

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

(a) any requirement imposed by the institution or institutions providing the course to attend any institution for the purposes of—

(i) registration or enrolment;

(ii) an examination;

(b) any requirement imposed by the institution or institutions providing the course to attend any institution on a weekend or during any vacation;

(c) any period of attendance at the institution or institutions providing the course which a student may but is not required to complete by that institution or those institutions.

(4) The Secretary of State may not designate a course as a designated distance learning course if—

(a) it falls within paragraph 7 or 8 of Schedule 2; and

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

(5) A first degree course is not a designated course where-

(a) it leads to the award of a professional qualification;

(b) a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification; and

(c) the current course begins on or after 1st September 2009.

Period of eligibility

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

(2) The period for which an eligible distance learning student retains that status is the "period of eligibility".

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

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

(a) withdraws from A's designated distance learning course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert A's status under regulation 126, 127, 128 or 145; or

(b) abandons or is expelled from A's designated distance learning course.

(5) The Secretary of State may terminate the period of eligibility where A has shown by A's conduct that A is unfitted to receive support.

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

(a) terminate the period of eligibility;

(b) determine that the student no longer qualifies for any particular support or particular amount of support;

(c) treat any support paid to the student as an overpayment which may be recovered under regulation 131.

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

Support for distance learning courses

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

(a) a grant in respect of fees not exceeding the lesser of the following amounts—

(i) £1,210; and

(ii) the "actual fees", being the amount of fees charged to the student in respect of an academic year of the designated distance learning course; and

(b) a grant not exceeding £260 for books, travel and other expenditure in connection with the designated distance learning course.

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

(3) An eligible distance learning student does not qualify for support under this regulation if—

(a) the student is a disabled student; and

(b) there has been bestowed on, or paid to the student in connection with the designated distance learning course a healthcare bursary the amount of which is calculated by reference to the student's income;

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

(5) An eligible distance learning student does not qualify for support under this regulation if the student has undertaken one or more distance learning courses for eight academic years in aggregate and the student has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (6).

(6) The loans and grants are—

(a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course pursuant to regulations made under section 22 of the 1998 Act;

(b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(**a**); or

(c) a loan in respect of an academic year of a distance learning course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(**b**).

(7) An eligible distance learning student does not qualify for support under this regulation if

(a) the distance learning course leads to an equivalent or lower qualification; or

(b) the student holds a first degree from an educational institution in the United Kingdom and the student began the course before 1st September 2009.

(8) For the purposes of paragraph (7)(b), a degree is not to be treated as a first degree where—

(a) it is a degree (other than an honours degree) that has been awarded to an eligible distance learning student who has completed the required modules, examinations or other forms of assessment for the student's first degree course; and

(b) the eligible distance learning student is registered to continue the course at the same educational institution after the award of the student's degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

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

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

Amount of support

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

(a) if at the date of the eligible distance learning student's application the student or the student's partner is entitled—

(i) under Part VII of the Social Security Contributions and Benefits Act 1992(**a**) to income support, housing benefit or council tax benefit; or

(ii) under Part 1 of the Jobseekers Act 1995(**b**) to income–based jobseeker's allowance or under section 2 of the Employment and Training Act 1973(**c**) to an allowance under the arrangements known as the New Deal;

the maximum amount of support available under regulation 119(1) is payable;

(b) where the relevant income is less than £16,510, the maximum amount of support available under regulation 119(1) is payable;

(c) where the relevant income is £16,510, the maximum amount of support available under regulation 119(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 119(1)(a);

(d) where the relevant income exceeds £16,510 but is less than £24,915, the maximum amount of support available under regulation 119(1)(b) is payable and the amount of support payable under regulation 119(1)(a) is the amount determined in accordance with paragraph (2);

(e) where the relevant income is £24,915, the maximum amount of support available under regulation 119(1)(b) is payable and the amount of support payable under regulation 119(1)(a) is £50;

(f) where the relevant income exceeds £24,915 but is less than £25,510, the maximum amount of support available under regulation 119(1)(b) is payable and no support is payable under regulation 119(1)(a);

(g) where the relevant income is £25,510 or more but less than £27,505, the amount of support payable under regulation 119(1)(b) is the amount left after deducting from the maximum amount of support available under regulation 119(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £25,510, and no support is payable under regulation 119(1)(a);

(h) where the relevant income is £27,505, the amount of support payable under regulation 119(1)(b) is £50, and no support is payable under regulation 119(1)(a);

(i) where the relevant income exceeds £27,505, no support is payable under regulation 119(1).

(2) Where paragraph (1)(d) applies, the amount of support payable under regulation 119(1)(a) is determined by deducting from the maximum amount of support available under regulation 119(1)(a) one of the following amounts—

(**a**) 1992 c. 4; Part VII was amended by the Housing Act 1991 (c. 52), Schedule 19; the Local Government Finance Act 1992 (c. 14), Schedule 9 and Schedule 14, the Social Security (Incapacity for Work) Act 1994 (c.18), Schedules 1 and 2, the Local Government etc (Scotland) Act 1994 (c.39), Schedules 13 and 14, the Jobseekers Act 1995 (c. 18), Schedule 2 and Schedule 3, the Housing Act 1996 (c. 52), Schedule 19 Part 6, the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8, the Health and Social Care Act 2001 (c. 15), Schedule 6 Part 3, the State Pension Credit Act 2002 (c. 16), Schedule 2 and Schedule 3; the Tax Credits Act 2002 (c. 21), Schedule 6, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, paragraphs 169 and 179; the Civil Partnership Act 2004 (c. 33), Schedule 24; the Welfare Reform Act 2007 (c. 40), Sections 30(2) and 31(1), Schedule 3, Schedule 5 and Schedule 8 and S.I. 2008/632.

(**b**) 1995 c. 18; Part I was amended by the Employment Rights Act 1996 (c. 18), Schedule 1; the Social Security Act 1998 (c. 14), Schedules 7 and 8; the Welfare Reform and Pensions Act 1999 (c. 30), Schedules 7, 8 and 13; the State Pension Credit Act 2002 (c. 16), Schedule 2; the National Insurance Contributions Act 2002 (c. 19), Schedule 1; the Income Tax (Earnings and Pensions) Act 2003 (c. 18), Schedule 6; the Civil Partnership Act 2004 (c. 33), Schedule 24 and S.I. 2006/343 and the Welfare Reform Act 2007 (c.40), Schedule 3.

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

(a) £50 plus a further £1 for each complete £7.57 by which the relevant income exceeds £16,510; or

(b) where the actual fees are less than £1,210, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between £1,210 and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under regulation 119(1)(a) is payable).

Interpretation of regulation 120

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

(a) subject to sub-paragraph (b), "partner" means any of the following—

(i) the spouse of an eligible distance learning student;

(ii) the civil partner of an eligible distance learning student;

(iii) a person ordinarily living with an eligible distance learning student as if that person were the student's spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which that student is being assessed for support and where that student began the specified designated distance learning course before 1st September 2005;

(iv) a person ordinarily living with an eligible distance learning student as if as if that person were the student's spouse or civil partner where an eligible distance learning student begins the specified designated distance learning course on or after 1st September 2005;

(b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—

(i) in the opinion of the Secretary of State, that person and the eligible distance learning student are separated; or

(ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible distance learning student;

(c) "relevant income" has the meaning given in paragraph (2).

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

(i) £2,000 in respect of the student's partner;

(ii) £2,000 in respect of the only or eldest child who is dependent on the student or the student's partner; and

(iii) £1,000 in respect of each other child who is dependent on the student or the student's partner.

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

(4) In this regulation—

(a) "child" in relation to an eligible distance learning student includes any child of the student's partner and any child for whom the student has parental responsibility;

(b) "current financial year" means the financial year which includes the first day of the academic year in respect of which a person is being assessed for support;

(c) "dependent" means wholly or mainly financially dependent;

(d) "financial year" means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;

(e) "financial resources in a financial year" means the aggregate of the student's income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student's partner.

(f) "income" means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002(**a**);

(g) "preceding financial year" means the financial year immediately preceding the current financial year;

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

Disabled distance learning students' allowance

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

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

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

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

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

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

(a) £20,520 in respect of an academic year for expenditure on a non-medical personal helper;

(b) £5,161 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;

(c) the additional expenditure incurred—

(i) within the United Kingdom for the purpose of attending the institution;

(ii) within or outside the United Kingdom for the purpose of attending, as a part of the course, any period of study at an overseas institution or for the purpose of attending the Institute;

(d) £1,724 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

Applications for support

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

(2) The application must be accompanied by—

(**a**) 2002 c.21; section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24.

(a) a declaration under regulation 124 completed by the academic authority; and

(b) such additional documentation as the Secretary of State may require.

(3) The Secretary of State may take such steps and make such inquiries as the Secretary of State considers necessary to determine whether the applicant is an eligible distance learning student, whether the applicant qualifies for support and the amount of support payable, if any.

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

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

(6) The general rule does not apply where—

(a) one of the events listed in paragraph (4) of regulation 116 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of six months beginning with the day on which the relevant event occurred;

(b) the applicant is applying for the disabled distance learning students' allowance, in which case the application must reach the Secretary of State as soon as is reasonably practicable; or

(c) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as the Secretary of State specifies.

Declarations provided by academic authorities

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

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

(3) In this Part, "declaration" means—

(a) where the applicant is applying for support in connection with the designated distance learning course for the first time, a statement that—

(i) provides the course information; and

(ii) confirms that the applicant has undertaken at least two weeks of the designated distance learning course;

(b) in any other case, a statement that—

(i) provides the course information; and

(ii) confirms that the applicant has enrolled to undertake the academic year of the designated distance learning course in respect of which the applicant is applying for support.

(4) In this regulation, "course information" means—

(a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;

(b) certification by the academic authority that it considers the applicant is undertaking the designated distance learning course in England; and

(c) in any case where the applicant is a disabled student, certification by the academic authority that it considers the applicant has chosen to undertake the designated distance learning course for a reason other than that the applicant is unable to attend a designated course for a reason which relates to the applicant's disability.

Information

125. Schedule 3 deals with the provision of information.

Transfer of status

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

(a) the Secretary of State receives a request from the eligible distance learning student to do so;

(b) the Secretary of State is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) the eligible distance learning student starts to undertake another designated distance learning course at the institution;

(b) the eligible distance learning student starts to undertake a designated distance learning course at another institution; or

(c) after commencing a designated distance learning course for a first degree (other than an honours degree) the eligible distance learning student is, before the completion of that course, admitted to a designated distance learning course for an honours degree in the same subject or subjects at the institution.

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

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

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

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

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

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

(a) he receives a request from the eligible student to do so; and

(b) the period of eligibility has not terminated.

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

(a) where the Secretary of State has determined to pay an amount of disabled students' allowance to the student under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible distance learning student;

(b) the maximum amount of disabled distance learning students' allowance to which the student would, apart from this regulation, be entitled in connection with undertaking a designated distance learning course in respect of that academic year is reduced by one third where the student became an eligible distance learning student in the second quarter of the academic year and by two thirds where the student became such a student in a later quarter of that year;

(c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled distance learning students' allowance payable for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to the student for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and

(d) where immediately before the student became an eligible distance learning student the student was eligible to apply, but had not applied for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum to which the student was entitled, the student may apply for such a loan or such additional amount of loan as if the student had continued to be an eligible student; and in the circumstances mentioned in paragraph (3) the maximum amount or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

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

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

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

(a) he receives a request from the eligible distance learning student to do so; and

(b) the period of eligibility has not terminated.

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

(a) where the Secretary of State has determined to pay an amount of disabled distance learning students' allowance to the student in periodic instalments no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;

(b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which the student may be entitled in respect of that year under Parts 4 to 6;

(c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where the student became such a student in a later quarter of that year; and

(d) where an amount of disabled distance learning students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled distance learning students' allowance paid to the student for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

Payment of grants for fees

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

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

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

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

130.—(1) Payments of the grant for books, travel and other expenditure and the disabled distance learning students' allowance may be made in such manner as the Secretary of State considers appropriate and the Secretary of State may make it a condition of entitlement to payment that the eligible distance learning student must provide the Secretary of State with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

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

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

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

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

(6) An exception applies if—

(a) a disabled distance learning students' allowance is payable in which case that particular grant may be paid before the Secretary of State has received a declaration;

(b) the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

Overpayments

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

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

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

(4) The methods of recovery are—

(a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(5) A payment of the disabled distance learning students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(6) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the disabled distance learning students' allowance unless the Secretary of State decides otherwise.

(8) The circumstances are—

(a) the Secretary of State applies all or part of the disabled distance learning students' allowance to the purchase of specialist equipment on behalf of the eligible distance learning student;

(b) the student's period of eligibility terminates after the relevant date; and

(c) the equipment has not been delivered to the student before the period of eligibility terminated.

(9) The circumstances are—

(a) the eligible distance learning student's period of eligibility terminates after the relevant date; and

(b) a payment of the disabled distance learning students' allowance in respect of specialist equipment is made to the student after the period of eligibility terminated.

(10) Where there is an overpayment of the disabled distance learning students' allowance, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if the Secretary of State considers it is appropriate to do so.

PART 12

SUPPORT FOR PART-TIME COURSES

Eligible part-time students

132.—(1)An eligible part-time student qualifies for support in connection with the student's undertaking a designated part-time course subject to and in accordance with this Part.

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

(3) A person ("A")is not an eligible part-time student if—

(a) there has been bestowed on, or paid to, A in connection with the part-time course—

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

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007;

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

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

(d) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support; or

(e) subject to paragraph (4), A is a prisoner.

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

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

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

(a) before 25th September 1991; and

(b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.

(7) Subject to paragraphs (10) to (12), if a person satisfies the conditions in paragraph (8) or (9)—

(a) paragraphs (2) and (3) do not apply to that person; and

(b) the person is an eligible part-time student for the purposes of this Part.

(8) The conditions in this paragraph are—

(a) the person qualified as an eligible part-time student in connection with an earlier academic year of the current designated part-time course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(b) the person was not ordinarily resident in Wales on the first day of the current designated part-time course; and

(c) the person's status as an eligible part-time student has not terminated.

(9) The conditions in this paragraph are—

(a) the Secretary of State has previously determined that the person is—

(i) an eligible student in connection with a designated course; or

(ii) an eligible distance learning student in connection with a designated distance learning course other than the current designated distance learning course;

(iii) an eligible part-time student in connection with a designated part-time course other than the current designated part-time course; or

(b) the person's status as an eligible student, as an eligible distance learning student or as an eligible part-time student or in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current designated part-time course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;

(c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and

(d) the person's status as an eligible part-time student has not terminated.

(10) Where—

(a) the Secretary of State determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which A's status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the current part-time course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of A's spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(11) Where—

(a) the Secretary of State determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which A's status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the current part-time course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(12) Paragraphs (10) and (11) do not apply where A began the course in connection with which the Secretary of State determined that A was an eligible part-time student or eligible student, as the case may be, before 1st September 2009.

(13) An eligible part-time student may not, at any one time, qualify for support for—

(a) more than one designated part-time course;

(b) a designated part-time course and a designated course;

(c) a designated part-time course and a designated distance learning course;

(d) a designated part-time course and a designated postgraduate course.

Students becoming eligible during the course of the academic year

133.—(1)Where one of the events listed in paragraph (3) occurs in the course of an academic year—

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

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

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

(a) a student may qualify for a grant for books, travel and other expenditure or for disabled part-time students' allowance (or both) in respect of that academic year in accordance with this Part; and

(b) neither a grant for books, travel and other expenditure or disabled part-time students' allowance is available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(3) The events are—

(a) the student's course becomes a designated part-time course;

(b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;

(c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;

(d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;

(e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the

three-year period immediately preceding the first day of the first academic year of the course;

(f) the student acquires the right of permanent residence;

(g) the student becomes the child of a Turkish worker;

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

(i) the student becomes the child of a Swiss national.

Designated part-time courses

134.—(1) Subject to paragraphs (2) and (3), a part-time course is designated for the purposes of section 22(1) of the 1998 Act and regulation 132 if—

(a) it is a course mentioned in Schedule 2 other than a course for the initial training of teachers;

(b) it is of at least one academic year's duration;

(c) it is ordinarily possible to complete the course in not more than twice the period ordinarily required to complete the full-time equivalent;

(d) it is wholly provided by a publicly funded educational institution or institutions in the United Kingdom or is provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom;

(e) it is not designated by or under regulation 6; and

(f) it is not designated under regulation 117.

(2) A course falling within paragraph 7 or 8 of Schedule 2 is not a designated part-time course where the governing body of a maintained school or Academy has arranged for the provision of such a course to a pupil of the school or Academy.

(3) A course that is taken as part of an employment-based teacher training scheme is not a designated part-time course.

(4) A first degree course is not a designated course where—

(a) it leads to the award of a professional qualification;

(b) a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification; and

(c) the current course begins on or after 1st September 2009.

(5) For the purposes of paragraph (1)—

(a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;

(b) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and

(c) an institution is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(**a**).

(6) For the purposes of paragraph (1)(c)—

(a) "full-time equivalent" means a full-time course leading to the same qualification as the part-time course in question;

(b) "period ordinarily required to complete the full-time equivalent" means—

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

(i) where the course is provided by or on behalf of the Open University, the period that a standard full-time student would require to complete the full-time equivalent if that student were awarded 120 credit points in each academic year;

(ii) where the course is provided by or on behalf of any other institution, the period in which a standard full-time student would complete the full-time equivalent;

(c) "standard full-time student" is a student who is to be taken—

(i) to have begun the full-time equivalent on the same date as the eligible part-time student began the part-time course in question;

(ii) not to have been excused any part of the full-time equivalent;

(iii) not to have repeated any part of the full-time equivalent; and

(iv) not to be absent from the full-time equivalent other than during vacations.

(7) For the purposes of section 22 of the 1998 Act and regulation 132(1) the Secretary of State may designate courses of higher education which are not designated by paragraph (1).

Period of eligibility

135.—(1) A student's status as an eligible part-time student is retained in connection with a designated part-time course until the status terminates in accordance with this regulation or regulation 132.

(2) The period for which an eligible part-time student's status is retained is the "period of eligibility".

(3) Subject to the following paragraphs and regulation 132, the period of eligibility terminates at the end of the academic year in which the eligible part-time student completes the designated part-time course.

(4) The period of eligibility terminates when the eligible part-time student—

(a) withdraws from the designated part-time course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert the student's status under regulation 144 or 145; or

(b) abandons or is expelled from the designated part-time course.

(5) The period of eligibility terminates at the end of the relevant academic year where the eligible part-time student cannot complete the designated part-time course within the period specified in regulation 134(1)(c).

(6) For the purposes of paragraph (5), "relevant academic year" means the academic year during or at the end of which it becomes impossible for the student to complete the course within the period specified in regulation 134(1)(c) even if the student increases the intensity of the student's study.

(7) The Secretary of State may terminate the period of eligibility where the eligible part-time student ("A") has shown by A's conduct that A is unfitted to receive support.

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

(a) terminate the period of eligibility;

(b) determine that the student no longer qualifies for any particular support or particular amount of support;

(c) treat any support paid to the student as an overpayment which may be recovered under regulation 148.

(9) Where the period of eligibility terminates—

(a) before the end of the academic year in which the eligible part-time student completes the designated part-time course; and

(b) otherwise than under paragraph (5),

the Secretary of State may, at any time, renew or extend the period of eligibility for such period as the Secretary of State determines.

Assistance for part-time courses

136.—(1) For the purposes of this regulation, the assistance available is—

(a) a grant in respect of fees not exceeding the lesser of the following amounts—

(i) the basic grant, and

(ii) the "actual fees", being the amount of fees charged to the student in respect of an academic year of the designated part-time course; and

(b) a grant not exceeding £260 for books, travel and other expenditure in connection with the designated part-time course.

(2) An eligible part-time student does not qualify for assistance under paragraph (1)(b) if the only paragraph in Part 2 of Schedule 1 into which the student falls is paragraph 9.

(3) An eligible part-time student qualifies for assistance—

(a) under paragraph (1)(a) if the Secretary of State considers that the student is undertaking the designated part-time course in England; and

(b) under paragraph (1)(b) if the Secretary of State considers that the student is undertaking the designated part-time course in the United Kingdom.

(4) An eligible part-time student does not qualify for support under this regulation if the student has undertaken one or more part-time courses for eight academic years in aggregate and the student has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (5).

(5) The loans and grants are—

(a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course pursuant to regulations made under section 22 of the 1998 Act;

(b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998; or

(c) a loan in respect of an academic year of a part-time course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.

(6) An eligible part-time student does not qualify for support under this regulation if –

(a) the part time course leads to an equivalent or lower qualification; or

(b) the student holds a first degree from an educational institution in the United Kingdom and the student began the course before 1st September 2009.

(7) For the purposes of paragraph (6)(b), a degree is not to be treated as a first degree where—

(a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for the student's first degree course; and

(b) the eligible part-time student is registered to continue the course at the same educational institution after the award of the student's degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

Amount of assistance

137.—(1) The basic grant varies according to the intensity of study.

(2) The intensity of study is calculated as follows and expressed as a percentage—

$$\frac{PT}{FT} x100$$

where

PT is the number of modules, credits, credit points, points or other unit to be awarded to the eligible part-time student by the academic authority if the student successfully completes the academic year in connection with which that student is applying for support;

FT is—

(a) where the course is provided by or on behalf of the Open University, 120;

(b) where the course is provided by or on behalf of any other institution, the number of modules, credits, credit points, points or other unit that a standard full-time student would be required to obtain in each academic year in order to complete the full-time equivalent within the period ordinarily required to complete that course.

(3) For the purposes of paragraph (2) —

(a) "full-time equivalent" and "standard full-time student" are to be interpreted in accordance with regulation 134; and

(b) the period ordinarily required to complete the full-time equivalent is to be calculated in accordance with regulation 134.

(4) The "basic grant" is—

(a) £805 where the intensity of study is less than 60 per cent. ("level 1");

(b) £970 where the intensity of study is 60 per cent. or more but less than 75 per cent. ("level 2");

(c) £1,210 where the intensity of study is 75 per cent. or more ("level 3").

(5) Subject to paragraph (6) and regulation 144(6), the amount of assistance payable in respect of an academic year is determined as follows—

(a) if at the date of the application the eligible part-time student or the student's partner is entitled—

(i) under Part VII of the Social Security Contributions and Benefits Act 1992 to income support, housing benefit or council tax benefit; or

(ii) under Part 1 of the Jobseekers Act 1995 to income–based jobseeker's allowance or under section 2 of the Employment and Training Act 1973 to an allowance under the arrangements known as the New Deal;

the maximum amount of assistance available under regulation 136(1) is payable.

(b) where the relevant income is less than £16,510, the maximum amount of assistance available under regulation 136(1) is payable;

(c) where the relevant income is £16,510, the maximum amount of assistance available under regulation 136(1)(b) is payable together with £50 less than the maximum amount of assistance available under regulation 136(1)(a);

(d) where the relevant income exceeds £16,510 but is less than £24,915, the maximum amount of assistance available under regulation 136(1)(b) is payable and the amount of assistance payable under regulation 136(1)(a) is the amount determined in accordance with paragraph (6);

(e) where the relevant income is £24,915, the maximum amount of assistance available under regulation 136(1)(b) is payable and the amount of assistance payable under regulation 136(1)(a) is £50;

(f) where the relevant income exceeds £24,915 but is less than £25,510, the maximum amount of assistance available under regulation 136(1)(b) is payable and no assistance is payable under regulation 136(1)(a);

(g) where the relevant income is £25,510 or more but less than £27,505, the amount of assistance payable under regulation 136(1)(b) is the amount left after deducting from the maximum amount of assistance available under regulation 136(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £25,510, and no assistance is payable under regulation 136(1)(a);

(h) where the relevant income is £27,505, the amount of assistance payable under regulation 136(1)(b) is £50, and no assistance is payable under regulation 136(1)(a);

(i) where the relevant income exceeds £27,505, no assistance is payable under regulation 136(1).

(6) Where paragraph (5)(d) applies, the amount of assistance payable under regulation 136(1)(a) is determined by deducting from the maximum amount of assistance available under regulation 136(1)(a) one of the following amounts—

(a) £50 plus a further £1 for each complete £11.92, £9.66 or £7.57 by which the relevant income exceeds £16,510 according to whether the intensity of study is level 1, 2 or 3, respectively; or

(b) where the basic grant is greater than the actual fees, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between the basic grant and the actual fees (unless the amount is a negative number in which case the maximum amount of assistance available under regulation 136(1)(a) is payable).

Interpretation of regulation 137

138.—(1) For the purposes of regulation 137—

(a) subject to sub-paragraph (b), "partner" means any of the following—

(i) the spouse of an eligible part-time student;

(ii) the civil partner of an eligible part-time student;

(iii) a person ordinarily living with an eligible part-time student as if the person were the student's spouse where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which that student is being assessed for assistance and where that student began the specified designated part-time course before 1st September 2005;

(iv) a person ordinarily living with an eligible part-time student as if the person were the student's spouse or civil partner where an eligible part-time student begins the specified designated part-time course on or after 1st September 2005;

(b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—

(i) in the opinion of the Secretary of State, that person and the eligible part-time student are separated; or

(ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;

(c) "relevant income" has the meaning given in paragraph (2).

(2) Subject to paragraph (3), an eligible part-time student's relevant income is equal to the student's financial resources in the preceding financial year less—

(i) £2,000 in respect of the student's partner;

(ii) £2,000 in respect of the only or eldest child who is dependent on the student or the student's partner; and

(iii) £1,000 in respect of each other child who is dependent on the student or the student's partner.

(3) Where the Secretary of State is satisfied that an eligible part-time student's financial resources in the preceding financial year are greater than the student's financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, the

Secretary of State may assess that student's financial resources by reference to those resources in the current financial year.

(4) In this regulation—

(a) "child" in relation to an eligible part-time student includes any child of the student's partner and any child for whom the student has parental responsibility;

(b) "current financial year" means the financial year which includes the first day of the academic year in respect of which a person is being assessed for assistance;

(c) "dependent" means wholly or mainly financially dependent;

(d) "financial year" means the period of twelve months for which the income of the eligible part-time student is computed for the purposes of the income tax legislation which applies to it;

(e) "financial resources in a financial year" means the aggregate of the student's income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student's partner;

(f) "income" means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;

(g) "preceding financial year" means the financial year immediately preceding the current financial year;

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

Assistance with fees in respect of attendance on a course in Wales, Northern Ireland or Scotland

139.—(1) The Secretary of State may pay support to assist with fees to an eligible part-time student in connection with the student's attendance on a designated part-time course in Wales, Northern Ireland or Scotland.

(2) The assistance paid under paragraph (1) must not exceed the lesser of—

(a) the maximum amount of assistance that would have been payable to the eligible part-time student under regulation 136(1)(a) had the student been undertaking the course in England; and

(b) the maximum amount of support to assist with fees that in the opinion of the Secretary of State would have been payable according to whether the student attends the designated part-time course in Wales, Northern Ireland or Scotland—

(i) pursuant to regulations made by the Welsh Ministers or the National Assembly for Wales under section 22 of the 1998 Act had the student been ordinarily resident in Wales and undertaking the part-time course in Wales;

(ii) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998 had the student been ordinarily resident in Northern Ireland and undertaking the part-time course in Northern Ireland; or

(iii) from funds of the Scottish Further and Higher Education Funding Council(**a**) had the student been ordinarily resident in Scotland and undertaking the part-time course in Scotland.

(**a**) This body was established under section 1 of the Further and Higher Education (Scotland) Act 2005 (2005 asp 6).

Disabled part-time students' allowance

140.—(1) An eligible part-time student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Secretary of State is satisfied the Secretary of State is obliged to incur by reason of a disability to which the student is subject in respect of undertaking a designated part-time course.

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

(3) An eligible part-time student does not qualify for the grant under this regulation unless the Secretary of State considers that the student is undertaking the designated part-time course in the United Kingdom.

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

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

(a) £15,390 in respect of an academic year for expenditure on a non-medical personal helper;

(b) £5,161 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;

(c) the additional expenditure incurred—

(i) within the United Kingdom for the purpose of attending the institution;

(ii) within or outside the United Kingdom for the purpose of attending, as a part of the course, any period of study at an overseas institution or for the purpose of attending the Institute;

(d) £1,293 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

Applications for support

141.—(1) A person (the "applicant") must apply for support in connection with each academic year of a designated part-time course by completing and submitting to the Secretary of State an application in such form as the Secretary of State may require.

(2) The application must be accompanied by—

(a) a declaration under regulation 142 completed by the academic authority; and

(b) such additional documentation as the Secretary of State may require.

(3) The Secretary of State may take such steps and make such inquiries as the Secretary of State considers necessary to determine whether the applicant is an eligible part-time student, whether the applicant qualifies for support and the amount of support payable, if any.

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

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

(6) The general rule does not apply where—

(a) one of the events listed in paragraph (3) of regulation 133 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Secretary of State within a period of six months beginning with the day on which the relevant event occurred;

(b) the applicant is applying for the disabled part-time students' allowance, in which case the application must reach the Secretary of State as soon as is reasonably practicable; or

(c) the Secretary of State considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Secretary of State not later than such date as the Secretary of State specifies.

Declarations provided by academic authorities

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

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

(3) In this Part, "declaration" means—

(a) where the applicant is applying for support in connection with the designated part-time course for the first time, a statement that—

(i) provides the course information; and

(ii) confirms that the applicant has undertaken at least two weeks of the designated part-time course;

(b) in any other case, a statement that—

(i) provides the course information; and

(ii) confirms that the applicant has enrolled to undertake the academic year of the designated part-time course in respect of which the applicant is applying for support.

(4) In this regulation, "course information" means—

(a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;

(b) the intensity of study;

(c) certification by the academic authority that it considers—

(i) the course to be a designated part-time course;

(ii) that it will be possible for the applicant to complete the course within the period specified in regulation 134(1)(c).

(5) For the purposes of paragraph (4)(c)(ii), the academic authority must have regard to—

(a) any increase in intensity of study that would be required for the applicant to complete the course within the period specified in regulation 134(1)(c);

(b) any parts of the course which the applicant has been required to repeat.

Information

143. Schedule 3 deals with the provision of information.

Transfer of status

144.—(1) Where an eligible part-time student transfers to another part-time course, the Secretary of State must transfer the student's status as an eligible part-time student to that course where—

(a) he receives a request from the eligible part-time student to do so;

(b) he is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) the eligible part-time student starts to undertake another designated part-time course at the institution;

(b) the eligible part-time student starts to undertake a designated part-time course at another institution; or

(c) after beginning a designated part-time course for a first degree (other than an honours degree) the eligible part-time student is, before the completion of that course, admitted to a designated part-time course for an honours degree in the same subject or subjects at the institution.

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

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

(5) An eligible student who transfers under paragraph (1) after the Secretary of State has determined the student's support in connection with the academic year of the course from which the student is transferring but before the student completes that year may not apply for another grant under regulation 136(1)(b) or regulation 140 in connection with the academic year of the course to which the student transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of assistance under regulation 136(1)(a) in respect of the academic years to and from which the student transfers is the amount of assistance with fees available in connection with the course which has the highest intensity of study as defined in regulation 137.

Conversion of status

145.—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated part-time course at the same or at another institution, the Secretary of State must convert the student's status as an eligible student to that of an eligible part-time student in connection with the course to which the student is transferring where—

(a) he receives a request from the eligible student to do so; and

(b) the period of eligibility has not terminated.

(2) Where, before completing the designated course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is to be treated as satisfying regulation 134(1)(b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period ordinarily required to complete the remainder of the designated course from which the student transfers.

(3) The following applies to a student ("A") who transfers under paragraph (1)—

(a) where the Secretary of State has determined to pay an amount of disabled students' allowance to A under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which A becomes an eligible part-time student;

(b) the maximum amount of disabled part-time students' allowance to which A would, apart from this regulation, be entitled in connection with A undertaking a designated part-time course in respect of that academic year is reduced by one third where A became an eligible part-time student during the second quarter of the academic year and by two thirds where A became such a student in a later quarter of that year;

(c) where an amount of disabled students' allowance for any purpose has been paid to A under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled part-time students' allowance payable for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to A for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and

(d) where immediately before A became an eligible part-time student A was eligible to apply, but had not applied, for a loan for living costs in respect of that year, or had not applied

for the maximum amount or increased maximum to which A was entitled, A may apply for such a loan or such additional amount of loan as if A had continued to be an eligible student; and in the circumstances mentioned in paragraph (4) the maximum or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

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

(5) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated part-time course at the same or at another institution, the Secretary of State must convert the student's status as an eligible distance learning student to that of an eligible part-time student in connection with the course to which the student is transferring where—

(a) he receives a request from the eligible distance learning student to do so; and

(b) the period of eligibility has not terminated.

(6) Where, before completing the designated distance learning course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is to be treated as satisfying regulation 134(1)(b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period ordinarily required to complete the remainder of the designated distance learning course from which the student transfers.

(7) Subject to paragraph (8), a student who transfers under paragraph (5) is entitled to receive in connection with the academic year of the course to which the student transfers the remainder of the support for which the Secretary of State has determined the student qualifies under Part 11 in respect of the academic year of the designated distance learning course from which the student transfers.

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

(9) An eligible student who transfers under paragraph (5) after the Secretary of State has determined the student's support in connection with the academic year of the distance learning course from which the student is transferring but before the student completes that year—

(a) may not apply for a grant under regulation 136(1)(b) if the student has already applied for a grant under regulation 119(1)(b);

(b) may not apply for a grant under regulation 140 if the student has already applied for a grant under regulation 122.

(10) Where a student transfers under paragraph (5), the total amount of assistance paid to the student under regulations 119(1)(a) and 136(1)(a) in respect of—

(a) the academic year from which the student transfers; and

(b) the academic year to which the student transfers;

must not exceed the amount of support determined to be payable to the student under regulation 119(1)(a).

(11) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated course at the same or at another institution, the Secretary of State must convert that student's status as an eligible part-time student to that of an eligible student in connection with the course to which the student is transferring where—

(a) he receives a request from the eligible part-time student to do so; and

(b) the period of eligibility has not terminated.

(12) The following applies to a student who transfers under paragraph (11)—

(a) where the Secretary of State has determined to pay an amount of disabled part-time students' allowance to the student in periodic instalments no payment in respect of that

amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;

(b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which the student may be entitled in respect of that year under Parts 4 to 6;

(c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where the student became such a student in a later quarter of that year; and

(d) where an amount of disabled part-time students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable to the student under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled part-time students' allowance paid to the student for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

(13) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated distance learning course at the same or at another institution, the Secretary of State must convert that student's status as an eligible part-time student to that of an eligible distance learning student in connection with the course to which the student is transferring where—

(a) he receives a request from the eligible part-time student to do so; and

(b) the period of eligibility has not terminated.

(14) Subject to paragraph (15), a student who transfers under paragraph (13) is entitled to receive in connection with the academic year of the course to which the student transfers the remainder of the support for which the Secretary of State has determined the student qualifies under this Part in respect of the academic year of the designated part-time course from which the student transfers.

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

(16) An eligible student who transfers under paragraph (13) after the Secretary of State has determined the student's support in connection with the academic year of the part-time course from which the student is transferring but before the student completes that year—

(a) may not apply for a grant under regulation 119(1)(b) if the student has already applied for a grant under regulation 136(1)(b);

(b) may not apply for a grant under regulation 122 if the student has already applied for a grant under regulation 140.

(17) Where a student transfers under paragraph (13), the total amount of assistance paid to the student under regulations 119(1)(a) and 136(1)(a) in respect of—

(a) the academic year from which the student transfers; and

(b) the academic year to which the student transfers;

must not exceed the maximum amount of support determined to be payable to the student under regulation 119(1)(a).

Payment of grants for books, travel and other expenditure and disabled part-time students' allowances

146.—(1) Payments of the grant for books, travel and other expenditure and the disabled part-time students' allowance may be made in such manner as the Secretary of State considers appropriate and the Secretary of State may make it a condition of entitlement to payment that the eligible part-time student must provide the Secretary of State with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

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

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

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

(5) The Secretary of State must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the disabled part-time students' allowance before the Secretary of State has received a declaration under regulation 142 unless an exception applies.

(6) An exception applies if—

(a) a disabled part-time students' allowance is payable in which case that particular grant may be paid before the Secretary of State has received a declaration;

(b) the Secretary of State has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

Payment of grants for fees

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

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

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

Overpayments

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

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

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

(4) The methods of recovery are—

(a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(5) A payment of the disabled part-time students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(6) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the disabled part-time students' allowance unless the Secretary of State decides otherwise.

(8) The circumstances are—

(a) the Secretary of State applies all or part of the disabled part-time students' allowance to the purchase of specialist equipment on behalf of the eligible part-time student;

(b) the student's period of eligibility terminates after the relevant date; and

(c) the equipment has not been delivered to the student before the period of eligibility terminated.

(9) The circumstances are—

(a) the eligible part-time student's period of eligibility terminates after the relevant date; and

(b) a payment of the disabled part-time students' allowance in respect of specialist equipment is made to the student after the period of eligibility terminated.

(10) Where there is an overpayment of the disabled part-time students' allowance, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if the Secretary of State considers it is appropriate to do so.

PART 13

SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

Eligible postgraduate students

149.—(1) An eligible postgraduate student qualifies, subject to and in accordance with this Part, for a grant to assist with the additional expenditure which the Secretary of State is satisfied the student is obliged to incur by reason of a disability to which the student is subject in respect of undertaking a designated postgraduate course.

(2) Subject to paragraph (4), a person is an eligible postgraduate student in connection with a designated postgraduate course if in assessing the student's application for support the Secretary of State determines that the student satisfies the conditions in paragraph (3).

(3) The conditions are—

(a) the person falls within one of the categories set out in Part 2 of Schedule 1; and

(b) by reason of a disability to which the student is subject, the student will be obliged to incur additional expenditure in respect of undertaking the course.

(4) A person ("A")is not an eligible postgraduate student if—

(a) there has been bestowed on, or paid to, A in connection with the course—

(i) a healthcare bursary;

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007;

(iii) any allowance, bursary or award of similar description made by a Research Council;

(iv) any allowance, bursary or award of similar description made by A's institution which includes any payment for the purpose of meeting additional expenditure incurred by A by reason of A's disability; or

(v) any allowance, bursary or award of similar description made under section 67(4)(a) of the Care Standards Act 2000(**a**) which includes payment for meeting additional expenditure incurred by A by reason of A's disability;

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

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

---

(**a**) 2000 c. 14.

(d) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support.

(5) For the purposes of paragraphs (4)(b) and (4)(c), "loan" means a loan made under any provision of the student loans legislation.

(6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (4)(c) only applies if the agreement was made—

(a) before 25th September 1991; and

(b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.

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

(8) An eligible postgraduate student does not qualify for a grant under this Part unless the Secretary of State considers that the student is undertaking the course in the United Kingdom.

(9) Subject to paragraphs (12) to (14), if a person satisfies the conditions in paragraph (3)(b) and in paragraph (10) or (11)—

(a) paragraphs (3)(a) and (4) do not apply to that person; and

(b) the person is an eligible postgraduate student for the purposes of this Part.

(10) The conditions are—

(a) the person qualified as an eligible postgraduate student in connection with an earlier academic year of the current designated postgraduate course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(b) the person was not ordinarily resident in Wales on the first day of the first academic year of the current designated postgraduate course; and

(c) the person's status as an eligible postgraduate student has not terminated.

(11) The conditions are—

(a) the Secretary of State has previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the current designated postgraduate course;

(b) the student's status as an eligible postgraduate student in connection with the course referred to in sub-paragraph (a) has been transferred from that course to the current designated postgraduate course as a result of one or more transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;

(c) the person was not ordinarily resident in Wales on the first day of the academic year of the course referred to in sub-paragraph (a); and

(d) the person's status as an eligible postgraduate student has not terminated.

(12) Where—

(a) the Secretary of State determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible postgraduate student in connection with an application for support for an earlier year of the current postgraduate course or an application for support in connection with another designated postgraduate course from which A's status as an eligible postgraduate student has been transferred to the current postgraduate course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of A's spouse, civil partner, parent or step-parent has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(13) Where—

(a) the Secretary of State determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible postgraduate student in connection with an application for support for an earlier year of the current postgraduate course or an application for support in connection with another designated postgraduate course from which A's status as an eligible postgraduate student has been transferred to the current postgraduate course; and

(b) as at the day before the academic year in respect of which A is applying for support, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(14) Paragraphs (12) and (13) do not apply where A began the course in connection with which the Secretary of State determined that A was an eligible postgraduate student before 1st September 2007.

(15) An eligible postgraduate student may not, at any one time, qualify for support for—

(a) more than one designated postgraduate course;

(b) a designated postgraduate course and a designated distance learning course;

(c) a designated postgraduate course and a designated course;

(d) a designated postgraduate course and a designated part-time course.

Students becoming eligible in the course of an academic year

150.—(1)Where one of the events listed in paragraph (2) occurs in the course of an academic year—

(a) a student may qualify for a grant under this Part in respect of that academic year in accordance with this Part; and

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

(2) The events are—

(a) the student's course becomes a designated postgraduate course;

(b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;

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

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

(e) the student becomes the child of a Turkish worker;

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

(g) the student becomes the child of a Swiss national.

Designated postgraduate courses

151.—(1) A postgraduate course is designated for the purposes of section 22(1) of the 1998 Act and regulation 149 if—

(a) it is a course for entry to which a first degree (or equivalent qualification) or higher is normally required;

(b) it is a course—

(i) of at least one academic year's duration; and

(ii) in the case of a part-time course, it is ordinarily possible to complete the course in not more than twice the period ordinarily required to complete the full-time equivalent;

(c) it is wholly provided by a publicly funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and

(d) it is not a course for the initial training of teachers or a course taken as part of an employment-based teacher training scheme.

(2) For the purposes of paragraph (1)—

(a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not it has entered an agreement with the student to provide the course;

(b) a university and any constituent college or institution in the nature of a college of a university is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and

(c) an institution is not to be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(**a**).

(3) For the purposes of paragraph (1)(b)(ii)—

(a) "full-time equivalent" means a full-time postgraduate course leading to the same qualification as the part-time postgraduate course in question;

(b) "period ordinarily required to complete the full-time equivalent" means the period that a standard full-time student would require to complete the full-time equivalent;

(c) "standard full-time student" means a student who is to be taken—

(i) to have begun the full-time equivalent on the same date as the eligible postgraduate student began the part-time postgraduate course in question;

(ii) not to have been excused any part of the full-time equivalent;

(iii) not to have repeated any part of the full-time equivalent; and

(iv) not to be absent from the full-time equivalent other than during vacations.

(4) For the purposes of section 22 of the 1998 Act and regulation 149, the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

152.—(1) A student's status as an eligible postgraduate student is retained in connection with a designated postgraduate course until the status is terminated in accordance with this regulation and regulation 149.

(2) The period for which an eligible postgraduate student retains the status is the "period of eligibility".

(3) Subject to the following paragraphs and regulation 149, the period of eligibility terminates at the end of the period ordinarily required for the completion of the designated postgraduate course.

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

(a) withdraws from the designated postgraduate course in circumstances where the Secretary of State has not transferred or will not transfer the student's status as an eligible postgraduate student to another course under regulation 153; or

(b) abandons or is expelled from the designated postgraduate course.

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

(5) Where the eligible postgraduate student is undertaking a designated postgraduate course that is a part-time course, the period of eligibility terminates at the end of the relevant academic year where the student cannot complete the course within the period specified in regulation 151(1)(b)(ii).

(6) For the purposes of paragraph (5), "relevant academic year" means the academic year during or at the end of which it becomes impossible for the student to complete the course within the period specified in regulation 151(1)(b)(ii).

(7) The Secretary of State may terminate the period of eligibility where the eligible postgraduate student ("A") has shown by A's conduct that A is unfitted to receive support.

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

(a) terminate the period of eligibility;

(b) determine that the student no longer qualifies for a grant or any particular amount of grant;

(c) treat any support paid to the student as an overpayment which may be recovered under regulation 158.

(9) Where the period of eligibility terminates—

(a) before the end of the academic year in which the eligible postgraduate student completes the designated postgraduate course; and

(b) otherwise than under paragraph (5),

the Secretary of State may, at any time, renew or extend the period of eligibility for such period as the Secretary of State determines.

Transfer of status

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

(a) the Secretary of State receives a request from the eligible postgraduate student to do so;

(b) the Secretary of State is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) on the recommendation of the academic authority the eligible postgraduate student starts to undertake another designated postgraduate course at the institution; or

(b) the eligible postgraduate student starts to undertake a designated postgraduate course at another institution.

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

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

(5) An eligible student who transfers under paragraph (1) after the Secretary of State has determined the student's support in connection with the academic year of the course from which the student is transferring but before the student completes that year may not apply for another grant under this Part in connection with the academic year of the course to which the student transfers.

Applications for support

154.—(1) A person (the "applicant") must apply for a grant under this Part in connection with each academic year of a designated postgraduate course by completing and submitting to the Secretary of State an application in such form and accompanied by such documentation as the Secretary of State may require.

(2) The application must reach the Secretary of State as soon as is reasonably practicable.

(3) The Secretary of State may take such steps and make such inquiries as the Secretary of State considers necessary to determine whether the applicant is an eligible postgraduate student, whether the applicant qualifies for a grant and the amount of grant payable, if any.

(4) The Secretary of State must notify the applicant—

(a) whether the applicant qualifies for a grant;

(b) if the applicant does qualify, the amount payable in respect of the academic year, if any; and

(c) how that amount is allocated between the types of eligible expenditure.

Information

155. Schedule 3 deals with the provision of information.

Amount of grant

156.—(1) Subject to paragraph (2), the grant under this Part is such amount as the Secretary of State considers appropriate to assist with one or more types of eligible expenditure.

(2) The grant must not exceed £10,260 in respect of an academic year.

(3) For the purposes of this Part, the "types of eligible expenditure" are—

(a) expenditure on a non-medical helper;

(b) expenditure on major items of specialist equipment; and

(c) additional expenditure incurred—

(i) within the United Kingdom for the purpose of attending the institution;

(ii) within or outside the United Kingdom for the purpose of attending, as part of the course, any period of study at an overseas institution or for the purposes of attending the Institute.

Payment of grant

157.—(1) The Secretary of State may pay a grant for which a student qualifies under this Part in such instalments (if any) and at such times as the Secretary of State considers appropriate and in the exercise of the Secretary of State's functions under this Part the Secretary of State may make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

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

Overpayments

158.—(1) An eligible postgraduate student must, if so required by the Secretary of State, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which the student is entitled under this Part.

(2) The Secretary of State must recover an overpayment of grant under this Part unless the Secretary of State considers it is not appropriate to do so.

(3) The methods of recovery are—

(a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;

(b) taking such other action for the recovery of an overpayment as is available to the Secretary of State.

(4) A payment of grant under this Part made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Secretary of State decides otherwise.

(5) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(6) In the circumstances in paragraphs (7) and (8), there is an overpayment of grant under this Part unless the Secretary of State decides otherwise.

(7) The circumstances are—

(a) the Secretary of State applies all or part of the grant under this Part to the purchase of specialist equipment on behalf of the eligible postgraduate student;

(b) the student's period of eligibility terminates after the relevant date; and

(c) the equipment has not been delivered to the student before the period of eligibility terminated.

(8) The circumstances are—

(a) the eligible postgraduate student's period of eligibility terminates; and

(b) a payment of grant under this Part in respect of specialist equipment is made to the student after the period of eligibility terminated.

(9) Where there is an overpayment of the grant under this Part, the Secretary of State may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if the Secretary of State considers it is appropriate to do so.

Bill Rammell
Minister of State
Department for Innovation, Universities and Skills

17th June 2008

SCHEDULE 1 Regulations 5, 115, 132 and 149

ELIGIBLE STUDENTS

PART 1

Interpretation

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

"EEA frontier self-employed person" means an EEA national who—

(a) is a self-employed person in England; and

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

"EEA frontier worker" means an EEA national who—

(a) is a worker in England; and

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

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

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

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

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

"European Economic Area" means the area comprised by the EEA States;

unless otherwise indicated, "family member" means—

(a) in relation an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—

(i) that person's spouse or civil partner;

(ii) that person's child or the child of their spouse or civil partner; or

(iii) dependent direct relatives in the ascending line of that person or that of the person's spouse or civil partner;

(b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—

(i) that person's spouse or civil partner; or

(ii) that person's child or the child of that person's spouse or civil partner;

(c) in relation to an EC national who falls within article 7(1)(c) of Directive 2004/38—

(i) that person's spouse or civil partner; or

(ii) direct descendants of the person or of the person's spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependants of the person or the person's spouse or civil partner;

(d) in relation to an EC national who falls within article 7(1)(b) of Directive 2004/38—

(i) that person's spouse or civil partner;

(ii) direct descendants of the person or of the person's spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependents of the person or the person's spouse or civil partner; or

(iii) dependent direct relatives in the person's ascending line or that of the person's spouse or civil partner;

(e) in relation to a United Kingdom national, for the purposes of paragraph 9—

(i) the person's spouse or civil partner; or

(ii) direct descendants of the person or the person's spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependants of the person or the person's spouse or civil partner;

"self-employed person" means—

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

(b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

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

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

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

"Swiss frontier employed person" means a Swiss national who—

(a) is an employed person in England; and

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

"Swiss frontier self-employed person" means a Swiss national who—

(a) is a self-employed person in England; and

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

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

"worker" means a worker within the meaning of article 7 of Directive 2004/38 or the EEA Agreement as the case may be.

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

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

(a) the current course; or

(b) a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the current course,

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

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

(a) A;

(b) A's spouse or civil partner;

(c) A's parent; or

(d) in the case of a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,

is or was temporarily employed outside the area in question.

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

---

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

Switzerland or the territory comprising the European Economic Area, Switzerland and Turkey includes—

(a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and

(b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside of the territory comprising the European Economic Area and Switzerland as members of such forces; and

(c) in the case of members of the regular armed forces of Turkey, any period which they serve outside of the territory comprising the European Economic Area, Switzerland and Turkey as members of such forces.

(6) For the purposes of this Schedule an area which —

(a) was previously not part of the European Community or the European Economic Area; but

(b) at any time before or after these Regulations come into force has become part of one or other or both of these areas,

is to be considered to have always been a part of the European Economic Area.

PART 2

Categories

Persons who are settled in the United Kingdom

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

(a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;

(b) is ordinarily resident in England;

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

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

3.—(1) A person who—

(a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;

(b) is ordinarily resident in England on the first day of the first academic year of the course;

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and

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

Refugees and their family members

4.—(1)A person—

(a) who is a refugee;

(b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the Secretary of State was recognised as a refugee; and

(c) who is ordinarily resident in England on the first day of the first academic year of the course.

(2) A person—

(a) who is the spouse or civil partner of a refugee;

(b) who was the spouse or civil partner of the refugee on the date on which the refugee made the application for asylum;

(c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and

(d) who is ordinarily resident in England on the first day of the first academic year of the course.

(3) A person—

(a) who is the child of a refugee or the child of the spouse or civil partner of a refugee;

(b) who, on the date on which the refugee made the application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;

(c) who was under 18 on the date on which the refugee made the application for asylum;

(d) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and

(e) who is ordinarily resident in England on the first day of the first academic year of the course.

Persons with leave to enter or remain and their family members

5.—(1)A person—

(a) with leave to enter or remain;

(b) who is ordinarily resident in England on the first day of the first academic year of the course; and

(c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(2) A person—

(a) who is the spouse or civil partner of a person with leave to enter or remain;

(b) who was the spouse or civil partner of the person with leave to enter or remain on the date on which that person made the application for asylum;

(c) who is ordinarily resident in England on the first day of the first academic year of the course; and

(d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(3) A person—

(a) who is the child of a person with leave to enter or remain or the child of the spouse or civil partner of a person with leave to enter or remain;

(b) who, on the date on which the person with leave to enter or remain made the application for asylum, was the child of that person or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;

(c) who was under 18 on the date on which the person with leave to enter or remain made the application for asylum;

(d) who is ordinarily resident in England on the first day of the first academic year of the course; and

(e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

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

6.—(1) A person who—

(a) is—

(i) an EEA migrant worker or an EEA self-employed person;

(ii) a Swiss employed person or a Swiss self-employed person;

(iii) a family member of a person mentioned in paragraph (i) or (ii);

(iv) an EEA frontier worker or an EEA frontier self-employed person;

(v) a Swiss frontier employed person or a Swiss frontier self-employed person; or

(vi) a family member of a person mentioned in paragraph (iv) or (v);

(b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and

(c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who—

(a) is ordinarily resident in England on the first day of the first academic year of the course;

(b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

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

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

8.—(1) A person who—

(a) is settled in the United Kingdom;

(b) was ordinarily resident in England and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence;

(c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;

(d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

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

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if the person goes to the

---

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

state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

EC nationals

9.—(1) A person who—

(a) is either—

(i) an EC national on the first day of the first academic year of the course; or

(ii) a family member of a such a person;

(b) is—

(i) attending a designated course in England; or

(ii) undertaking a compressed degree course, designated part-time course or a designated postgraduate course in England;

(c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

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

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

10.—(1)A person who—

(a) is an EC national other than a United Kingdom national on the first day of the first academic year of the course;

(b) is ordinarily resident in England on the first day of the first academic year of the course;

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and

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

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

Children of Swiss nationals

11. A person who—

(a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;

(b) is ordinarily resident in England on the first day of the first academic year of the course;

(c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

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

Children of Turkish workers

12. A person who—

(a) is the child of a Turkish worker;

(b) is ordinarily resident in England on the first day of the first academic year of the course; and

(c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

SCHEDULE 2 Regulations 6(1), 117(1) and 134(1)

DESIGNATED COURSES

1. A first degree course.

2. A course for the Diploma of Higher Education.

3. A course for the Higher National Diploma or Higher National Certificate of—

(a) the Business & Technician Education Council; or

(b) the Scottish Qualifications Authority.

4. A course for the Certificate of Higher Education.

5. A course for the initial training of teachers.

6. A course for the further training of youth and community workers.

7. A course in preparation for a professional examination of a standard higher than that of—

(a) examination at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or

(b) the examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3,

not being a course for entry to which a first degree (or equivalent qualification) is normally required.

8. A course—

(a) providing education (whether or not in preparation for an examination) the standard of which is higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 7(a) or (b) but not higher than that of a first degree course; and

(b) for entry to which a first degree (or equivalent qualification) is not normally required.

SCHEDULE 3 Regulations 11, 125, 143 and 155

INFORMATION

1. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must, as soon as reasonably practicable after being requested to do so, provide the Secretary of State with such information as the Secretary of State considers the Secretary of State requires for the purposes of these Regulations.

2. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must forthwith inform the Secretary of State and provide the Secretary of State with particulars if any of the following occurs—

(a) the applicant or student withdraws from, abandons or is expelled from their course;

(b) the applicant or student transfers to any other course at the same or at a different institution;

(c) the applicant or student ceases to undertake the course and does not intend to or is not permitted to continue it for the remainder of the academic year;

(d) the applicant or student is absent from the course for more than 60 days due to illness or for any period for any other reason;

(e) the month for the start or completion of the course changes;

(f) the applicant or student's home or term-time address or telephone number changes.

3. Information provided to the Secretary of State pursuant to these Regulations must be in the format that the Secretary of State requires and, if the Secretary of State requires the information to be signed by the person providing it, an electronic signature in such form as the Secretary of State may specify satisfies such a requirement.

SCHEDULE 4 Regulation 95

FINANCIAL ASSESSMENT

Definitions

1.—(1)In this Schedule:—

(a) "existing student" means an eligible student who is not a new eligible student;

(b) "financial year" means the period of twelve months in respect of which the income of a person whose residual income is calculated under the provisions of this Schedule is computed for the purposes of the income tax legislation which applies to it;

(c) "household income" has the meaning given in paragraph 3;

(d) "independent eligible student" has the meaning given in paragraph 2;

(e) "Member State" means a Member State of the European Union;

(f) "new eligible student" means an eligible student who begins a specified designated course on or after 1st September 2004;

(g) "parent" means a natural or adoptive parent and "child", "mother" and "father" are to be construed accordingly;

(h) "parent student" means an eligible student who is the parent of an eligible student;

(i) "partner" in relation to an eligible student means any of the following—

(i) the spouse of an eligible student;

(ii) the civil partner of an eligible student;

(iii) a person ordinarily living with an eligible student as if the person were the student's spouse where an eligible student falls within paragraph 2(1)(a) and the student begins the specified designated course on or after 1st September 2000;

(iv) a person ordinarily living with an eligible student as if that person were the student's civil partner where an eligible student falls within paragraph 2(1)(a) and the student begins the specified designated course on or after 1st September 2005;

(j) "partner" in relation to the parent of an eligible student means any of the following other than another parent of the eligible student—

(i) the spouse of an eligible student's parent;

(ii) the civil partner of an eligible student's parent;

(iii) a person ordinarily living with the parent of an eligible student as if the person were the parent's spouse;

(iv) a person ordinarily living with the parent of an eligible student as if the person were the parent's civil partner;

(k) "preceding financial year" means the financial year immediately preceding the relevant year;

(l) "prior financial year" means the financial year immediately preceding the preceding financial year;

(m) "relevant year" means the academic year of the course in respect of which the household income falls to be assessed;

(n) "residual income" means taxable income after the application of paragraph 4 (in the case of an eligible student), paragraph 5 (in the case of an eligible student's parent), paragraph 6 (in the case of an eligible student's partner) or paragraph 7 (in the case of the partner of a new eligible student's parent) and income referred to in sub-paragraph (2) received net of income tax;

(o) "taxable income" means, in relation to paragraph 4, in respect of the academic year for which an application has been made under regulation 9 and, in relation to paragraph 5, in respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 5) of the prior financial year, a person's taxable income from all sources computed as for the purposes of—

(i) the Income Tax Acts;

(ii) the income tax legislation of another Member State which applies to the person's income; or

(iii) where the legislation of more than one Member State applies to the period, the legislation under which the Secretary of State considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5)

except that no account is taken of income referred to in sub-paragraph (2) paid to another party.

(2) The income referred to in this sub-paragraph is any benefits under a pension arrangement pursuant to an order made under section 23 of the Matrimonial Causes Act 1973(**a**) which includes provision made by virtue of sections 25B(4) and 25E(3) of that Act or pension benefits under Part 1 of Schedule 5 to the Civil Partnership Act 2004(**b**) which includes provision made by virtue of Parts 6 and 7 of that Schedule.

Independent eligible student

2.—(1) An independent eligible student is an eligible student where—

(**a**) 1973 c.18; section 23 was amended by the Administration of Justice Act 1982 (c..53), section 18. Section 25B was inserted by the Pensions Act 1995(c.26), section 166(1) and was amended by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 4. Section 25E was inserted by the Pensions Act 2004(c.35), section 319(1), Schedule 12, paragraph 3.

(**b**) 2004 c.33; paragraph 25 of Schedule 5 was modified by S.I.2006/1934

(a) the student is aged 25 or over on the first day of the relevant year;

(b) the student is married or is in a civil partnership before the beginning of the relevant year, whether or not the marriage or civil partnership is still subsisting;

(c) the student has no parent living;

(d) the Secretary of State is satisfied that neither of the student's parents can be found or that it is not reasonably practicable to get in touch with either of them;

(e) the student has communicated with neither of the student's parents for the period of one year before the beginning of the relevant year or, in the opinion of the Secretary of State, the student can demonstrate on other grounds that the student is irreconcilably estranged from the student's parents;

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

(g) the student's parents are residing outside the European Community and the Secretary of State is satisfied that either—

(i) the assessment of the household income by reference to their residual income would place those parents in jeopardy; or

(ii) it would not be reasonably practicable for those parents as a result of the calculation of any contribution under paragraph 8 or 9 to send any relevant funds to the United Kingdom;

(h) paragraph 5(9) applies and the parent whom the Secretary of State considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);

(i) in the case of a student who began the current course before 1st September 2009, the student is a member of a religious order who resides in a house of that order;

(j) as at the first day of the relevant year, the student has the care of a person under the age of 18; or

(k) the student ("A") has supported A out of A's earnings for any period or periods ending before the first academic year of the course which periods together aggregate not less than three years, and for the purposes of this sub-paragraph A is to be treated as supporting A out of A's earnings during any period in which—

(i) A was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, whether national, regional or local ("a relevant authority");

(ii) A was in receipt of benefit payable by any relevant authority in respect of a person who is available for employment but who is unemployed;

(iii) A was available for employment and had complied with any requirement of registration imposed by a relevant authority as a condition of entitlement for participation in arrangements for training or receipt of benefit;

(iv) A held a state studentship or comparable award; or

(v) A received any pension, allowance or other benefit paid by any person by reason of a disability to which the Secretary of State is subject, or by reason of confinement, injury or sickness.

(**a**) 1989 c. 41. Section 22 has been amended by the Children (Leaving Care) Act 2000 (c. 35), section 2, Local Government Act 2000 (c. 41), Schedule 5, paragraph 19, the Adoption and Children Act 2002 (c. 38), section 116(2) and the Children Act 2004 (c. 31), section 52.

(2) An eligible student who qualifies as an independent eligible student under paragraph 2(1)(j) in respect of an academic year of a designated course retains that status for the duration of the period of eligibility.

Household income

3.—(1) The amount of an eligible student's contribution depends on the household income.

(2) The household income is—

(a) in the case of an eligible student who is not an independent eligible student, the residual income of the eligible student aggregated with the residual income of the eligible student's parents (subject to paragraph 5 (9)) and—

(i) in the case of a new eligible student who began the specified designated course before 1st September 2005, the residual income of the partner (other than a partner within the meaning of paragraph 1(j)(iv)) of the student's parent (provided that the Secretary of State has selected that parent under paragraph 5(9); or

(ii) in the case of a new eligible student who began the specified designated course on or after 1st September 2005, the residual income of the partner of the student's parent (provided that the Secretary of State has selected that parent under paragraph 5(9));

(b) in the case of an independent eligible student who has a partner, the residual income of the eligible student aggregated with the residual income of the eligible student's partner (subject to sub-paragraph (4)); or

(c) in the case of an independent eligible student who does not have a partner, the residual income of the eligible student.

(3) In determining the household income under sub-paragraph (2), there is deducted the sum of £1,130—

(a) for each child wholly or mainly financially dependent on the eligible student or the eligible student's partner; or

(b) for each child other than the eligible student wholly or mainly financially dependent on the eligible student's parent or the eligible student's parent's partner whose residual income is being taken into account.

(4) For the purpose of calculating the contribution payable in respect of a parent student, the residual income of the parent student's partner must not be aggregated under paragraph (b) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

Calculation of eligible student's residual income

4.—(1) For the purpose of determining the residual income of an eligible student, there is deducted from the student's taxable income (unless already deducted in determining taxable income) the aggregate of any amounts falling within any of the following sub-paragraphs—

(a) any remuneration for work done during any academic year of the eligible student's course, provided that such remuneration does not include any sums paid in respect of any period for which the student has leave of absence or is relieved of the student's normal duties for the purpose of attending that course;

(b) the gross amount of any premium or other sum paid by the eligible student in relation to a pension (not being a pension payable under a policy of life insurance) in respect of which relief is given under section 273 of the Income and Corporation Taxes Act 1988(**a**) or

---

(**a**) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10, the Income Tax (Trading and other Income) Act 2005, Schedule 1, the Finance Act 2004 (c. 12), section 281 and Schedule 35, S.I. 2005/3229 and, the Income Tax Act 2007, Schedule 1.

under section 188 of the Finance Act 2004(**a**), or where the eligible student's income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 1 into which an eligible student falls is paragraph 9 and the student's income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Schedule 1, the student's income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that the student is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

(3) Where the eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is—

(a) if the student purchases sterling with the income, the amount of sterling the student so receives;

(b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics(**b**).

Calculation of parent's residual income

5.—(1) For the purposes of determining the taxable income of an eligible student's parent, ("A" in this paragraph) any deductions which fall to be made or exemptions which are permitted—

(a) by way of personal reliefs provided for in Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988(**c**) or, where the income is computed for the purposes of the income tax legislation of another Member State, any comparable personal reliefs;

(b) pursuant to any enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or

(c) under sub-paragraph (2)

must not be made or permitted.

(2) For the purposes of determining the residual income of A there is deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs—

(a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 273 of the Income and Corporation Taxes Act 1988 or under section 188 of the Finance Act 2004, or where the income is computed for the purposes of the income tax legislation of another Member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;

(b) in any case where income is computed for the purposes of the Income Tax Acts by virtue of sub-paragraph (6) any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums so deducted do not exceed the deductions which would be made if the whole of A's income were in fact income for the purposes of the Income Tax Acts;

(**a**) 2004 c.12; section 188 was amended by the Finance Act 2007 (c.11), sections 68, 69 and 114 and Schedules 18, 19 and 27.
(**b**) "Financial Statistics" (ISSN 0015-203X).
(**c**) 1988 c.1; Chapter 1 of Part VII was amended by the Finance Act 1988 (c.39), sections 29, 31 and 33 and Schedules 3 and 14, the Finance Act 1989 (c.26) section 33, the Finance Act 1990 (c.29) Schedule 19, the Finance (No.2) Act 1992 (c.48) Schedules 5 and 9, the Finance Act 1993 (c.34), section 107 and Schedule 23, the Finance Act 1994 (c.9), section 77 and Schedules 8, 17 and 26, the Finance Act 1996 (c.8), sections 145 and 171 and Schedules 20, 21 and 41, the Finance Act 1997 (c.16) section 56, the Finance Act 1999 (c.16), sections 25, 30 and 31 and Schedule 20, S.I. 2001/3629, Tax Credits Act 2002 (c.21) Schedule 6, the Finance Act 2002 (c.23) section 27, the Income Tax (Earnings and Pensions) Act 2003 (c.1) Schedule 6, the Finance Act 2004 (c.12) Schedule 35, the Income Tax (Trading and Other Income) Act 2005 (c.5) Schedule 1, S.I. 2005/3229, S.I. 2006/3241, the Income Tax Act 2007 (c.3), Schedules 1 and 3 and S.I. 2008/673.

(c) where A is a parent student or A holds a statutory award, £1,130.

(3) Where the Secretary of State is satisfied that the residual income of A in the financial year beginning immediately before the relevant year ("the current financial year") is likely to be not more than 95 per cent. of the sterling value of A's residual income in the prior financial year the Secretary of State may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain A's residual income for the current financial year.

(4) In an academic year immediately following one in which the Secretary of State has ascertained A's residual income for the current financial year under sub-paragraph (3), the Secretary of State must ascertain A's residual income in the preceding financial year.

(5) Where A satisfies the Secretary of State that A's income is wholly or mainly derived from the profits of a business or profession carried on by A, then any reference in this Schedule to a prior financial year means the earliest period of twelve months which ends after the start of the prior financial year and in respect of which accounts are kept relating to that business or profession.

(6) Where A is in receipt of any income which does not form part of A's income for the purposes of the Income Tax Acts or the income tax legislation of another Member State by reason only that—

(a) A is not resident, ordinarily resident or domiciled in the United Kingdom, or where A's income is computed as for the purposes of the income tax legislation of another Member State, not so resident, ordinarily resident or domiciled in that Member State;

(b) the income does not arise in the United Kingdom, or where A's income is computed as for the purposes of the income tax legislation of another Member State, does not arise in that Member State; or

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

A's taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of A's income for the purposes of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

(7) Where A's income is computed as for the purposes of the income tax legislation of another Member State, it is computed under the provisions of this Schedule in the currency of that Member State and A's income for the purposes of this Schedule is the sterling value of that income determined in accordance with the rate for the month in which the last day of the financial year in question falls, as published by the Office for National Statistics.

(8) Where one of the eligible student's parents dies either before or during the relevant year and that parent's income has been or would be taken into account for the purpose of determining the household income, the household income is—

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

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

(i) the appropriate proportion of the household income determined by reference to the income of both parents, being the proportion in respect of that part of the relevant year during which both parents were alive; and

(ii) the appropriate proportion of the household income determined by reference to the income of the surviving parent, being the proportion in respect of that part of the relevant year remaining after the death of the other parent.

(9) Where the Secretary of State determines that the parents are separated for the duration of the relevant year, the household income is determined by reference to the income of whichever parent the Secretary of State considers the more appropriate under the circumstances.

(10) Where the Secretary of State determines that the parents have separated in the course of the relevant year, the household income is determined by reference to the aggregate of—

(a) the appropriate proportion of the household income determined in accordance with sub-paragraph (9), being the proportion in respect of that part of the relevant year during which the parents are separated; and

(b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

Calculation of eligible student's partner's residual income

6.—(1) Subject to sub-paragraphs (2), (3) and (4) of this paragraph, an eligible student's partner's income is determined in accordance with paragraph 5 (other than sub-paragraphs (8), (9) and (10) of paragraph 5), references to the parent being construed as references to the eligible student's partner.

(2) Where the Secretary of State determines that the eligible student and the student's partner are separated for the duration of the relevant year, the partner's income is not taken into account in determining the household income.

(3) Where the Secretary of State determines that the eligible student and the student's partner have separated in the course of the relevant year, the partner's income is determined by reference to the partner's income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Secretary of State determines that the eligible student and the student's partner are not separated.

(4) Where an eligible student has more than one partner in any one academic year, the provisions of this paragraph apply in relation to each.

Calculation of parent's partner's residual income

7. The income of a new eligible student's parent's partner whose income is part of the household income by virtue of paragraph 3(2)(a) is determined in accordance with paragraph 6, references to the eligible student's partner being construed as references to the new eligible student's parent's partner, and references to the eligible student being construed as references to the new eligible student's parent.

Calculation of contribution – old system students

8.—(1) The contribution payable in relation to an old system student who is not an independent eligible student or is an independent eligible student with a partner is—

(a) in any case where the household income is £23,660 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £23,660; and

(b) in any case where the household income is less than £23,660, nil.

(2) The contribution payable in relation to an old system student who is an independent eligible student without a partner is—

(a) in any case where the household income is £11,020 or more, £45 with the addition of £1 for every complete £9.27 by which the household income exceeds £11,020; and

(b) in any case where the household income is less than £11,020, nil.

(3) The amount of the contribution payable under sub-paragraph (1) or (2) must in no case exceed £7,998.

(4) The contribution may be adjusted in accordance with paragraph 10.

(5) Where sub-paragraph (6) applies, the aggregate contributions must not exceed £7,998.

(6) This sub-paragraph applies where—

(a) a contribution is payable in relation to two or more eligible students (other than current system students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or

(b) the household income consists of the residual income of an independent eligible student and the student's partner where both hold a statutory award.

Calculation of contribution – current system students

9.—(1) In relation to an eligible student who is a current system student, the contribution payable is—

(a) in any case where the household income exceeds £39,796, £1 for every complete £9.27 by which the household income exceeds £39,796; and

(b) in any case where the household income is £39,796 or less, nil.

(2) The contribution must not in any case exceed £6,210.

(3) The contribution may be adjusted in accordance with paragraph 10.

(4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,210.

(5) This sub-paragraph applies where—

(a) a contribution is payable in relation to two or more eligible students (other than old system students) in respect of the same income under paragraph 5 or, where the relevant parent's partner's residual income is taken into account, under paragraphs 5 and 7; or

(b) the household income consists of the residual income of an independent eligible student and the student's partner where both hold a statutory award.

Split contributions

10. Where the same household income is used to assess the amount of a statutory award for which two or more persons qualify, the contribution payable in respect of the eligible student is divided by the number of such persons.

SCHEDULE 5

Regulation 3

AMENDMENT OF THE EDUCATION (STUDENT SUPPORT) REGULATIONS 2008

Amendment of regulation 2 of the 2008 Regulations

1. In regulation 2 (1) in the definition of "2008 cohort student" after sub-paragraph (a), insert

"(aa) the current course leads to qualification as a social worker."

Amendment of regulation 4(10) of the 2008 Regulations

2. In regulation 4(10)(a)(i) omit "or" and insert—

"(iA) an eligible distance learning student in connection with a designated distance learning course; or"

3. In regulation 4(10)(b) after "as an eligible part-time student", insert ", as an eligible distance learning student".

Amendment of regulation 104 of the 2008 Regulations

4. In regulation 104, after paragraph (7) insert—

"(7A)– (1) Subject to paragraph (7C), no support under Part 5 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the

Secretary of State it would be appropriate in all the circumstances for support to be paid in respect of that day.

(7B) Paragraph (7A) does not apply in respect of disabled student's allowance.

(7C) In deciding whether it would be appropriate for support to be due under paragraph (7A) the circumstances to which the Secretary of State must have regard include the financial hardship not paying the support would cause and whether not paying the support would affect the student's ability to continue the course."

Amendment of regulation 110 of the 2008 Regulations

5. In regulation 110, after paragraph (8) insert—

"(8A) Subject to paragraph (8B), no support under Part 6 is due in respect of any day of an academic year on which the eligible student is a prisoner, unless in the opinion of the Secretary of State it would be appropriate in all the circumstances for support to be paid in respect of that day.

(8B) In deciding whether it would be appropriate for support to be due under paragraph (8A) the circumstances to which the Secretary of State must have regard include the financial hardship which not paying the support would cause and whether not paying the support would affect the student's ability to continue the course."

Amendment of regulation 120(2)(a) of the 2008 Regulations

6. In regulation 120(2)(a) for "£7.60", substitute "£7.58"

Amendment to regulation 132(9) of the 2008 Regulations

7. In regulation 132(9)(a)(i) omit "or" and insert—

"(iA) an eligible distance learning student in connection with a designated distance learning course other than the current designated distance learning course; or".

8. In regulation 132(9)(b) after "as an eligible student", insert ", as an eligible distance learning student".

Amendment of Part 2 of Schedule 1 of the 2008 Regulations

9. For paragraph 8 (1) (b) and (c) substitute—

"(b) was ordinarily resident in England and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence;

(c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;"

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for support for students taking designated higher education courses in respect of an academic year beginning on or after 1st September 2009.

These Regulations are based on the Education (Student Support) Regulations 2008 (as amended) (the "2008 Regulations") to which they make a number of amendments and changes, some of which are of a minor and drafting nature. Changes of substance other than increases in rates of grants and loans are described below.

These Regulations revoke the 2008 Regulations and the Education (Student Support) (Amendment) Regulations 2008. Regulation 4 sets out the extent of the revocation.

Regulation 2 includes a definition of "equivalent and lower level qualification". A new student will be excluded from support, except targeted support, for a second full-time, part-time or full time distance learning course beginning on or after 1st September 2009, where the student already holds an equivalent or higher level higher education qualification from an institution whether or not in the United Kingdom. Parts 4, 6, 7, 11 and 12 set out the detailed provisions in regard to fee and maintenance (grant and loan) support.

Part 4 makes changes to the definition of "previous course" and its effect on eligibility for support. From 1st September 2009, a new student with a lower level higher education qualification will be eligible for fee and maintenance grant support to "top up" a higher level qualification only. A new student who has studied on a previous full-time course, part-time course for the initial training of teachers, full-time distance learning or compressed degree course, but who did not achieve a qualification will have years of previous course deducted from their fee and maintenance grant entitlement if their previous course was taken at a publicly funded institution whether or not in the United Kingdom.

Regulation 2 and the definition of "2008 cohort student" is changed to include graduates undertaking a second undergraduate higher education course in social work. Part 6 sets out the support available by way of loans for living costs. The 2008 Regulations are amended accordingly. Support is also removed for a graduate student beginning a full-time undergraduate course on or after 1st September 2009 which leads to a qualification as a landscape architect, landscape designer, landscape manager, town planner or town and country planner. Parts 2 and 6 set out the provisions on designated courses and loans for living costs.

Regulation 2 and Part 4 extend the definition of "end-on course" and entitlement to fee loans for a current system student who undertakes a full-time first degree course (other than a first degree course for the initial training of teachers) beginning on or after 1st September 2009 after ceasing to attend a lower level full-time or part-time higher education course, compressed degree course or a designated distance learning course.

Regulation 2 introduces a new definition of "type 3 teacher training student" for a new and continuing student undertaking from 1st September 2009 a part-time undergraduate course of initial teacher training where the periods of full-time attendance (including teaching practice) during the academic year are from 6 to 10 weeks. Parts 5 and 6 provide for the amounts of grants and loans to which a student is eligible.

Parts 2, 11 and 12 amend the definition of designated full-time, part-time or distance learning courses for new students so that from 1st September 2009 any course is excluded that leads to the award of a professional qualification where a first degree would normally be required for entry to a course leading to that professional qualification.

Parts 5 and 6 introduce provisions for a full-time new or continuing student who spends part of an academic year in prison. Such a student will qualify for grants and loans for living costs on a pro-rated daily basis for the days that the student is not in prison. The 2008 Regulations have been amended accordingly.

Minor changes have been made to simplify the support system. Part 6 removes the ineligibility for support for new and continuing students undertaking part-time or full-time distance learning courses where they are in receipt of Scottish healthcare allowances. Part 10 removes the separate support arrangements for new students undertaking full-time courses where they are living in houses of religious orders. Parts 2, 11 and 12 have been amended to exclude Academies as institutions whose courses can be designated for support.

A further minor change has been made to Parts 2 and 12 increasing eligibility for support of full-time and part-time students where they have already been determined by the Secretary of State as being eligible students in connection with a previous designated distance learning course and that status has been converted or transferred from that course to the current course. The 2008 Regulations have been amended accordingly

Schedule 1 extends eligibility for support to students who are settled in the United Kingdom but left England and exercised a right of residence in the EEA or Switzerland, and subsequently returned to the United Kingdom to study at a higher education institution. The 2008 Regulations have been amended accordingly.

Schedule 4 makes new provisions for new and continuing full-time students from 1st September 2009 in regard to financial assessment. The Regulations replace preceding financial year with prior financial year as the basis of income assessment except in regard to certain independent students. The reassessment threshold is changed from 85% or less of assessed income to 95% or less. The provisions relating to "split" contributions (which apply where the household income is used to assess the support for more than one student) have been simplified so that where the same household income is used to assess the amount of support for which two or more students qualify, the contribution for each eligible student is divided by the number of students.

Schedule 4 also introduces an adjustment to the calculation of a student's contribution towards support so that household income does not include any benefits under a pension arrangement or pension benefits paid to an ex-partner pursuant to a court order made under the Matrimonial Causes Act 1973 or the Civil Partnership Act 2004. Similarly, where a household is in receipt of any benefits under a pension arrangement or pension benefits pursuant to such a court order this is included within the calculation of household income.

Apart from increases to amounts in line with inflation, the income thresholds and assessments of loans for living costs and maintenance grants are not changed. A minor amendment has been made to an incorrect taper amount in regulation 120 of the 2008 Regulations.

An impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies. The impact on the public sector is minimal.