STATUTORY RULES OF NORTHERN IRELAND

2008 No. 250

EDUCATION

The Education (Student Support) Regulations (Northern Ireland) 2008

Made - - - - *16th June 2008*

Coming into operation - *17th July 2008*

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SCHEDULE 1 — AMENDMENT TO THE EDUCATION (STUDENT SUPPORT) REGULATIONS (NORTHERN IRELAND) 2007
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SCHEDULE 6 — RELEVANT INSTITUTIONS OF HIGHER EDUCATION IN THE REPUBLIC OF IRELAND

The Department for Employment and Learning(**a**) makes the following Regulations in exercise of the powers conferred by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(**b**) and now vested in it(**c**).

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Student Support) Regulations (Northern Ireland) 2008 and come into operation on 17th July 2008.

Interpretation

2.—(1) In these Regulations—

"the Order" means the Education (Student Support) (Northern Ireland) Order 1998;

"the 1986 Order" means the Education and Libraries (Northern Ireland) Order 1986(**d**);

"the 2005 Order" means the Higher Education (Northern Ireland) Order 2005(**e**);

"the 1998 Act" means the Teaching and Higher Education Act 1998(**f**);

"the 1998 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 1998(**g**);

"the 1999 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 1999(**h**);

"the 2000 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2000(**i**);

"the 2001 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2001(**j**);

"the 2002 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2002(**k**);

"the 2003 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2003(**l**);

(**a**) Formerly known as the Department of Higher and Further Education, Training and Employment; *see* the Department for Employment and Learning Act (Northern Ireland) 2001 c.15

(**b**) S.I. 1998/1760 (N.I. 14). Article 3 was amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b), the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, the Finance Act 2003, (c.14), s. 147(4) and by the Higher Education (Northern Ireland) Order 2005, (S.I. 2005/1116 (N.I. 5)), Articles 11 and 12

(**c**) S.R. 1999 No. 481 *see* Article 5(b) and Schedule 3 Part II

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

(**e**) S.I. 2005/1116 (N.I. 5)

(**f**) 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"

(**g**) S.R. 1998 No. 298

(**h**) S.R. 1999 No. 192, as amended by S.R. 1999 No. 370 and S.R. 2000 No. 175

(**i**) S.R. 2000 No. 213, as amended by S.R. 2000 No. 254, S.R. 2000 No. 296 and S.R. 2001 No. 77

(**j**) S.R. 2001 No. 277

(**k**) S.R. 2002 No. 224, as amended by S.R. 2003 No. 121

(**l**) S.R. 2003 No. 298, as amended by S.R. 2003 No. 339

"the 2004 Regulations" means the 2003 Regulations as amended by the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2004(**a**), the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2004(**b**), the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2005(**c**) and the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2005(**d**);

"the 2005 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2005(**e**);

"the 2006 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2006(**f**);

"the 2007 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2007(**g**)

"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;

"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 his 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 his income;

"college fee loan" means a loan for college fees payable to a qualifying student pursuant to regulations made by the Department under Article 3 of the Order;

"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 2008; or

(ii) begins the course on or after 1st September 2008; and

(c) either—

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

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

(**a**) S.R. 2004 No. 254
(**b**) S.R. 2004 No. 517
(**c**) S.R. 2005 No. 298
(**d**) S.R. 2005 No. 323
(**e**) S.R. 2005 No. 340, as amended by S.R. 2005 No. 445 and S.R. 2006 No. 252
(**f**) S.R. 2006 No. 312, as amended by S.R. 2006 No. 383
(**g**) S.R. 2007 No. 195, as amended by S.R. 2007 No. 293 and S.R. 2007 No.363

"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;

"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—

(d) is not an old system student; and

(e) either—

(i) began the current course on or after 1st September 2006 and is continuing on that course after 31st August 2008; or

(ii) begins the current course on or after 1st September 2008;

"Department" means the Department for Employment and Learning;

"designated course" means a course designated by regulation 6 or by the Department under regulation 6;

"designated distance learning course" means a course designated by the Department under regulation 110;

"designated part-time course" means a course designated by regulation 127 or by the Department under regulation 127;

"designated postgraduate course" means a course designated by regulation 144 or by the Department under regulation 144;

"disabled distance learning students' allowance" means the grant payable under regulation 115;

"disabled part-time students' allowance" means the grant payable under regulation 133;

"disabled students' allowance" means the grant payable under regulation 41;

"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 108;

"eligible part-time student" has the meaning given in regulation 125;

"eligible postgraduate student" has the meaning given in regulation 142;

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

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

"employment-based teacher training scheme" means—

(a) a scheme established by the Secretary of State for Innovation, Universities and Skills 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) 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 3 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 or 2007 Regulations;

(b) a full-time honours degree course beginning on or after 1st September 2006 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 or 2007 Regulations; or

(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;

"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 5(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 Department under Article 3 of the Order;

"fee loan" means a loan for fees made to a current system student pursuant to regulations made by the Department under Article 3 of the Order;

"fees" has the meaning given in Article 3(1) of the 2005 Order except in references to college fees;

"fee support" means a grant for fees pursuant to regulations made by the Department under Article 3 of the Order, 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(**b**);

"former Metropolitan Police District" means—

(**a**) ERASMUS is part of the European Community action programme SOCRATES; OJ No L28, 3.2.2000, p1

(**b**) 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

(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;

(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 (5);

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

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

"higher education course" means a course referred to in Schedule 3 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 5;

"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 Department under Article 3 of the Order, 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 Department under Article 3 of the Order;

"long courses loan" means a long courses loan pursuant to regulation 70;

"old award" is an award within the meaning of the Education (Students Awards) Regulations (Northern Ireland) 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**) S.I. 1972/1265 (N.I. 14), to which there have been amendments not relevant to these Regulations

(**b**) 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 and S.I. 2007/961, the Schedule

(**c**) S.R. 2003 No. 459, as amended by S.R. 2004 No. 395, S.R. 2005 No. 446, S.R. 2006 No. 378 and S.R. 2007 No. 336

(a) began the current course before 1st September 2006 and is continuing on that course after 31st August 2008;

(b) began the current course at the College of Agriculture, Food and Enterprise(**a**) before 1st September 2007 and who is continuing on that course after 31st August 2008;

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

(d) began the current course on or after 1st September 2006 at a relevant institution of higher education in the Republic of Ireland;

(e) 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 he began before 1st September 2006; or

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

(f) began the current course on or after 1st September 2006 having had his status as an eligible student transferred to that course as a result of one or more transfers of that status by the Department pursuant to regulations made by him under Article 3 of the Order from a designated course in connection with which the Department determined him to be an eligible student and which he began—

(i) before 1st September 2006; or

(ii) before 1st September 2007 and in relation to which he 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 111 in relation to an eligible distance learning student, in regulation 128 in relation to an eligible part-time student and in regulation 145 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 he is studying for his course (provided that the period of residence in that country is a requirement of his 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 he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom;

(b) 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(**b**)); and

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

(**a**) College of Agriculture, Food and Rural Enterprise is an integral part of the Department of Agriculture and Rural Development, and consists of campuses at Enniskillen, Greenmount and Loughry

(**b**) 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.

"preliminary course" means a course mentioned in paragraph 2 or 3 of Schedule 3 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 regulations" means regulations made in accordance with Article 50(1) of the 1986 Order or the 1998, 1999, 2000,2001, 2002, 2003, 2004, 2005, 2006 or 2007 Regulations;

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

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

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

(a) is listed in regulation 6(6);

(b) leads to qualification as a social worker; or

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

"qualifying student" means a person who satisfies the criteria in regulation 81;

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

"relevant institution of higher education in the Republic of Ireland" means an institution listed in Schedule 6;

"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 (9);

(**a**) Cmnd. 9171

(**b**) 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 (10);

"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 made, grant paid or other support provided by virtue of the Order or the 1986 Order, 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) (Northern Ireland) Order 1990(**b**), the Education (Student Loans) Act 1990(**c**), the Education (Scotland) Act 1980 and regulations made thereunder, the Order and regulations made thereunder and the 1998 Act, and regulations made thereunder;

"support" means financial support by way of grant or loan made by the Department pursuant to regulations made by him under Article 3 of the Order;

"transitional award" means an award made under the Students Awards Regulations (Northern Ireland) 1998(**d**) 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 he is applying for support are in aggregate at least 6 weeks but less than 10 weeks; and

"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 he is applying for support are in aggregate 10 weeks or more.

(2) The Department may determine that a course is a compressed degree course if, in its opinion, that course is—

(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.

(**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**) 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

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

(**d**) S.R. 1998 No. 273

(4) For the purposes of the college fee loan, references to an eligible student in regulations 7, 8, 9 and 89 and Schedule 4 include a person treated as an eligible student by virtue of regulation 82.

(5) 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 he meets the conditions in paragraph (6) or (8).

(6) 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.

(7) In paragraph (6), 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.

(8) 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) he was unable to take up the offer because a specified qualification or grade was not awarded to him;

(c) he appealed against the decision not to award him the qualification or grade;

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

(e) as a result, he 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.

(9) 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.

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

(11) 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 Department from a course (the "initial course") in connection with which the Department determined the student to be an eligible student pursuant to regulations made by him under Article 3 of the Order, the specified designated course is the initial course.

(12) 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 (Northern Ireland) 2007

3. The 2007 Regulations are amended in accordance with Schedule 1.

Revocation, savings and transitional provisions

4.—(1) Subject to paragraphs (2) and (3), the following Regulations are revoked on 1st September 2008—

(a) The Education (Student Support) Regulations (Northern Ireland) 2007(**a**);

(b) The Education (Student Support) (Amendment) Regulations (Northern Ireland) 2007(**b**)

(c) The Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2007(**c**)

(2) Paragraph (3) of regulation 4 of the 2007 Regulations continues to apply.

(3) The 2007 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1st September 2007 but before 1st September 2008.

(4) Regulation 88 applies to loans with effect from 1st September 2008.

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

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

(b) had no award under the 1986 Order was made to him in respect of the course but a transitional award would have been made to him if he had applied for an award under the 1986 Order and his resources had not exceeded his requirements,

he 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 made or which would have been made under the 1986 Order) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (6) applies he qualifies for support by way of loan for living costs under Part 6 only if he is an eligible student under these Regulations and if he 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 he 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) he begins immediately after ceasing that course, but unless paragraph (5) applies he qualifies for fee support under Chapters 3 and 4 of Part 4 and grants for living and other costs under Part 5 only if he is an eligible student under these Regulations and if he satisfies the relevant qualifying conditions for an old system student in Parts 4 and 5.

(**a**) S.R. 2007 No. 195
(**b**) S.R. 2007 No. 293
(**c**) S.R. 2007 No. 363

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 his application for support the Department determines that the person falls within one of the categories set out in Part 2 of Schedule 2.

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

(a) an old award has been made to him in respect of his attendance on the course;

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

(c) there has been made to him or paid to him in connection with the course—

(i) subject to paragraph (g), a healthcare bursary the amount of which is not calculated by reference to his income; or

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

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

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

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

(g) he has, on or after 1st September 2005, commenced a course for a degree in social work at an educational institution in Northern Ireland as a Regional Social Work Degree Trainee under arrangements made by the Department of Health, Social Services and Public Safety under Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972.

(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 he 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 him; and

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

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

(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 Department under Article 3 of the Order; and

(b) 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) that 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; and

(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.

(10) The conditions are—

(a) the Department has previously determined that the person is—

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

(ii) 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 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 Department under Article 3 of the Order; and

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

(11) Where—

(a) the Department 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 his 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 his 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 his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(12) Where—

(a) the Department 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 his 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 his 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 he is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Department determined that he 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) and (4), a course is a designated course for the purposes of Article 3(1) of the Order and regulation 5 if it is—

(a) mentioned in Schedule 3;

(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 by a relevant institution of higher education in the Republic of Ireland which (in either case) are maintained or assisted by recurrent grants out of public funds or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

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

(3) 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 he is unable to attend for a reason which relates to his disability.

(4) 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**).

(5) 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.

(6) Paragraph (5) 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.

(7) For the purposes of Article 3 of the Order and regulation 5(1) the Department may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

7.—(1) A student retains his status as an eligible student 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 the 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) withdraws from his designated course in circumstances where the Department has not transferred or converted or will not transfer or convert his status as an eligible student under regulation 8, 120 or 138; or

(b) abandons or is expelled from his designated course.

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

(6) If the Department 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 Department may take such of the following actions as he considers appropriate in the circumstances—

(a) terminate the period of eligibility;

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

(c) treat any support paid to the student as an overpayment which may be recovered under Chapter 4 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 Department may, at any time, renew the period of eligibility for such period as he determines.

Transfer of status

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

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

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

(c) the period of eligibility has not terminated.

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

(2) The grounds for transfer are—

(a) on the recommendation of the academic authority the eligible student 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) the eligible student 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, the eligible student 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, the eligible student 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) the eligible student 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), an eligible student who transfers under paragraph (1) is entitled to receive in connection with the academic year of the course to which he transfers the remainder of the support assessed by the Department in respect of the academic year of the course from which he transfers.

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

(5) An eligible student who transfers under paragraph (1) after the Department has assessed his support in connection with the academic year of the course from which he is transferring but before he completes that year may not, in connection with the academic year of the course to which he transfers, apply for another grant or loan of a kind that he has already applied for under these Regulations in connection with the academic year of the course from which he is transferring unless otherwise provided.

PART 3

APPLYING FOR SUPPORT AND PROVISION OF INFORMATION

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 Department an application in such form and accompanied by such documentation as the Department may require.

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

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

Time limits

10.—(1) The general rule is that the application must reach the Department 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 16 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Department 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 23(4) or (10), an additional amount of fee contribution loan under regulation 34(5), an additional amount of loan for living costs under regulation 77(3) or an additional amount of college fee loan under regulation 86 in which case the application must reach the Department 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 34(3), an additional amount of loan for living costs or an additional amount of long courses loan under regulation 77(1), in which case the application must reach the Department 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 Department as soon as is reasonably practicable; or

(e) the Department 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 Department not later than such date as it specifies.

Information

11. Schedule 4 deals with the provision of information.

PART 4

FEE SUPPORT

CHAPTER 1

TYPES OF FEE SUPPORT AVAILABLE

Current system students

12. A current system student qualifies for a fee loan in respect of the fees payable by him in connection with his attendance on a designated course in accordance with Chapter 2 of this Part.

Old system students

13.—(1) An old system student qualifies for a grant for fees in respect of the fees payable by him in connection with his attendance on a designated course in accordance with Chapter 3 of this Part.

(2) An old system student qualifies for a fee contribution loan in respect of the fees payable by him in connection with his attendance on a designated course in accordance with Chapter 4 of this Part.

Requirement to enter a contract for a loan for fees

14. To receive a loan for fees payable under this Part, an eligible student must enter into a contract with the Department.

Students becoming eligible in the course of an academic year

15. Where one of the events listed in regulation 16 occurs in the course of an academic year—

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

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

Events

16. The events are—

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

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

(c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 2) of a national of that state;

(d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;

(e) the 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 2; or

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

Students to be treated as in attendance on a course

17.—(1) A student to whom this regulation applies is treated as if he 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 or the Republic of Ireland but is not in attendance because he is unable to attend for a reason which relates to his disability.

CHAPTER 2

FEE LOANS FOR CURRENT SYSTEM STUDENTS

Availability of fee loans to current system students - general

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

(a) he has an honours degree from an institution in the United Kingdom and the exemption in regulation 36(1) or (2) does not apply; or

(b) he has an honours degree from an institution in the Republic of Ireland for which he received financial support under previous regulations and the exemption in regulation 36(1) or (2) does not apply; or

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

(2) Notwithstanding paragraph (1)(a) and (b), a current system student qualifies for fee support in respect of a course leading to a degree in social work at an educational institution in Northern Ireland.

(3) A current system student does not qualify for a fee loan in respect of—

(a) an academic year of a designated course that is a bursary year or an Erasmus year; or

(b) a year for which he is in receipt of funding from the Department to participate in a management development programme known as the Business Education Innitiative.

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

(5) The standard entitlement is calculated in accordance with regulation 19, 20, 21 or 22.

(6) When assessing an application for support in respect of an academic year of a designated course, the Department 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.

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

(8) In addition to the standard entitlement, a current system student who falls within regulation 19 qualifies for a fee loan in respect of the first academic year that he takes of the designated course that is not a bursary year or an Erasmus year if he failed to complete the most recent previous course because of compelling personal reasons.

(9) Where a current system student qualifies for a fee loan under paragraph (7), the Department 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.

(10) In addition to the standard entitlement, if the Department 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.

(11) 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 he 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.

(12) 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)).

(13) The amount of the fee loan in respect of an academic year is determined in accordance with regulation 23 and may be nil.

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

19. Subject to regulation 20, 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 – course leading to degree in social work

20.—(1) Where the current course is a course leading to a degree in social work at an educational institution in Northern Ireland, the standard entitlement of a current system student is as follows—

$$OD + 1$$

where

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

(2) Paragraph (1) also applies where—

(a) the current course in relation to that student falls under paragraph (a) of the definition of "end-on course"; or

(b) the student has studied on a previous course other than a course mentioned in sub-paragraph (a).

(3) Where this regulation applies, regulations 21 and 22 do not apply.

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

21.—(1) The standard entitlement of a current system student who has studied on a previous course and who does not fall within regulations 20 or 22 is calculated as follows—

$$(OD + 1) - PC$$

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 who has had his status as an eligible student transferred to the current course as a result of one or more transfers of that status by the Department pursuant to regulations made by it under Article 3 of the Order 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

22.—(1) 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 3;

(ii) is on a full-time first degree course (other than a first degree course for the initial training of teachers) that he 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 he 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) Regulations 19, 20 and 21 do not apply to students to whom this regulation applies.

(3) The standard entitlement of a student to whom this regulation applies is calculated as follows—

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

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.

Amount of the fee loan

23.—(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) £3,145; 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) £1,570; 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 or the Republic of Ireland 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 or the Republic of Ireland (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 Department to borrow an additional amount by way of a fee loan in respect of the academic year of the course to which he 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 he 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 Department for another fee loan in respect of the academic year of the course to which he 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 he 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 he transfers, provided that he qualifies for a fee loan in respect of that year, is determined by deducting the amount of any fee loan he has taken out under these Regulations in respect of the academic year from which he is transferring from the lesser of—

(a) £3,145 or, where one of the cases set out in paragraph (3) applies, £1,570; and

(b) the fees payable by the student in respect of the academic year to which he 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 he transfers provided that he qualifies for a fee loan in respect of that year is the lesser of—

(a) £3,145 or, where one of the cases set out in paragraph (3) applies, £1,570; 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, he may apply to borrow an additional amount which when added to the amount already applied for does not exceed the relevant maximum applicable in his case.

CHAPTER 3

GRANTS FOR FEES FOR OLD SYSTEM STUDENTS

Old system students who are continuing students

24.—(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 2008 (a "continuing student"), or began a designated course on or after 1st September 2006 at a relevant institution of higher education in the Republic of Ireland and is continuing on that course after 31st August 2008.

(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 2008 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 Department determined in accordance with regulations made by it under Article 3 of the Order 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 Department 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 began after 31st August 2006,

X is the number of academic years of the designated course that began after 31st August 2006 in respect of which the Department determined in accordance with regulations made by it under Article 3 of the Order 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 Department 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 Department 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 30, 31 or 32 and may be nil.

Old system students who are transferring students

25.—(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 2008; or

(b) begins a designated course on or after 1st September 2008,

having had his status as an eligible student transferred to the course as a result of one or more transfers of that status by the Department pursuant to regulations made by it under Article 3 of the Order from a designated course that he 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 he was a gap year student to another designated course in accordance with regulations made by the Department under Article 3 of the Order.

(3) Where in the course of assessing an application for support in respect of an academic year of the relevant course, the Department determined in accordance with regulations made by it under Article 3 of the Order 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 Department 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 Department determined in accordance with regulations made by it under Article 3 of the Order 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 Department determined in accordance with regulations made by it under Article 3 of the Order 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 he 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 Department 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 Department 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 30, 31 or 32 and may be nil.

Old system students who are on end-on courses

26.—(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 he began before 1st September 2006 qualifies for a grant for fees in respect of that course in accordance with regulation 24.

(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 24.

(3) Paragraphs (4) to (12) 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 he—

(i) began on or after 1st September 2006 and is continuing on after 31st August 2008; or

(ii) begins on or after 1st September 2008;

(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)—

(a) he has an honours degree from an institution in the United Kingdom and the exemption in regulation 36(1) or (2) does not apply; or

(b) he has an honours degree from an institution in the Republic of Ireland for which he received financial support under previous regulations and the exemption in regulation 36(1) or (2) does not apply.

(5) Notwithstanding paragraph (4)(a) and (b) an old system student qualifies for fee support in respect of a course leading to a degree in social work at an educational institution in Northern Ireland.

(6) 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.

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

(8) Subject to paragraph (9), 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.

(9) The standard entitlement of an old system student to whom paragraph (3)(a) applies whose course is a course leading to a degree in social work at an educational institution in Northern Ireland is calculated as follows—

$$OD + 1$$

where

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

(10) When assessing an application for support in respect of an academic year of a course to which this paragraph applies, the Department 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.

(11) 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 Department allocates a grant for fees to that year when assessing the application for support for that year.

(12) The amount of the grant for fees in respect of an academic year of a course to which this regulation applies is determined in accordance with regulation 30, 31 or 32 and may be nil.

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

27.—(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) he has an honours degree from an institution in the United Kingdom and the exemption in regulation 36(1) or (2) does not apply; or

(b) he has an honours degree from an institution in the Republic of Ireland for which he received financial support under previous regulations and the exemption in regulation 36(1) or (2) does not apply; or

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

(3) Notwithstanding paragraph (2)(a) and (b) an old system student qualifies for fee support in respect of a course leading to a degree in social work at an educational institution in Northern Ireland.

(4) 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.

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

(6) 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.

(7) When assessing an application for support in respect of an academic year of a designated course, the Department 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 gap year student qualifies for a grant for fees in respect of a standard academic year of the designated course if the Department 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 30 or 31 and may be nil.

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

28.—(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 he was a gap year student to another designated course in accordance with regulations made by the Department under Article 3 of the Order.

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

(a) he has an honours degree from an institution in the United Kingdom and the exemption in regulation 36(1) or (2) does not apply; or

(b) he has an honours degree from an institution in the Republic of Ireland for which he received financial support under previous regulations and the exemption in regulation 36(1) or (2) does not apply; or

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

(3) Notwithstanding paragraph (2)(a) and (b) an old system student qualifies for fee support in respect of a course leading to a degree in social work at an educational institution in Northern Ireland.

(4) 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.

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

(6) Subject to paragraph (7), the standard entitlement is calculated as follows—

$$(OD + 1) - PC$$

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.

(7) The standard entitlement of an old system student to whom paragraph (6) applies whose course is a course leading to a degree in social work at an educational institution in Northern Ireland is calculated as follows—

$$OD + 1$$

where

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

(8) When assessing an application for support in connection with an academic year of a designated course, the Department 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 regulation applies qualifies for a grant for fees in respect of a standard academic year of the designated course if the Department allocates a grant for fees to that year when assessing the application for support for that year.

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

(11) Where an old system student to whom this regulation applies qualifies for a grant for fees under paragraph (10), the Department must not allocate a grant for fees under paragraph (8) to the first academic year that the student takes of the designated course that is not a bursary year or an Erasmus year.

(12) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 30 or 31 where the eligible student falls within paragraph (1)(a) and in accordance with regulation 30, 31 or 32 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

29.—(1) In addition to the standard entitlement, if the Department 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 he 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 28(10)).

Amount of the grant for fees for a course at a publicly funded institution or relevant institution of higher education in the Republic of Ireland

30.—(1) Unless one of the cases set out in regulation 23(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) £1,255; and

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

(2) In the cases set out in regulation 23(3), the basic amount of the grant for fees in respect of an academic year is the lesser of—

(a) £625; and

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

(3) Where a contribution exceeding nil is calculated under Schedule 5, a deduction will be made from the basic amount of the grant for fees determined under paragraph (1) or (2) in accordance with regulation 92.

(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) £2,245; 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) £4,565; and

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

(7) In the case of a course in respect of an academic year at a relevant institution of higher education in the Republic of Ireland, the amount of grant is an amount specified by the Department in writing.

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

31.—(1) The basic amount of the grant for fees in respect of an academic year at a private institution is the lesser of £1,255 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 23(3) applies.

(2) The amount of the grant for fees in respect of an academic year at a private institution is the lesser of £625 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 23(3) applies.

(3) Where a contribution exceeding nil is calculated under Schedule 5, a deduction will be made from the basic amount of the grant for fees determined under paragraph (1) or (2) in accordance with regulation 92.

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

32.—(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 31 does not apply including courses or academic years for the degrees of Bachelor of Divinity, Bachelor of Theology, Bachelor of Arts (Joint Honours) or the Diploma in Theology of the Queen's University of Belfast, undertaken at the Union Theological College, the Edgehill College, the Irish Baptist College, Belfast or the Belfast Bible College is the lesser of—

(a) £1,175; 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 £2,975.

CHAPTER 4

FEE CONTRIBUTION LOANS FOR OLD SYSTEM STUDENTS

Availability of fee contribution loans to old system students

33. An old system student, other than a student undertaking a course at a relevant institution of higher education in the Republic of Ireland, or whose course is a course leading to a degree in social work at an educational institution in Northern Ireland qualifies for a fee contribution loan in respect of an academic year of a designated course if—

(a) he qualifies for a grant for fees in respect of that year or would have qualified if he 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

34.—(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 30 or 31 and the amount of the grant that is payable after the application of the contribution in accordance with regulation 92.

(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) £1,255 or, if any of the cases set out in regulation 23(3) apply, £625; 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 Department 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 Department 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 his 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 he 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 has applied for a fee contribution loan of less than the maximum amount to which he is entitled, he may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in his case.

CHAPTER 5

INTERPRETATION OF PART 4

Previous course

35.—(1) Subject to the exceptions in paragraphs (3), (4) and (5), a "previous course" is any full-time higher education course or any part-time course for the initial training of teachers which the student began to attend or, in the case of a compressed degree course or a designated distance

learning course, undertake before the current course and which meets any of the conditions in paragraph (2).

(2) The conditions are—

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

(b) the course was provided by an institution in the Republic of Ireland and the student was funded under previous regulations for some or all of the academic years during which he took the course; or

(c) any scholarship, exhibition, bursary, grant, allowance or award of any description which was paid in respect of the student 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) 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.

(4) 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;

(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.

(5) 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;

(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.

(6) Subject to paragraphs (7), (8) and (9), for the purpose of determining PC in the formulae in regulations 21 and 28—

(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.

(7) For the purpose of determining PC in the formulae in regulations 21 and 28, 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 academic years of that previous course.

(8) For the purpose of determining PC in the formulae in regulations 21 and 28, 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 he had failed to complete a previous course for compelling personal reasons.

(9) For the purpose of determining PC in the formulae in regulations 21 and 28, where a student transfers from an academic year of one designated course to an academic year of another designated course before the Department considers that he has completed the year from which he

is transferring, the time spent by the student during the academic year in which the transfer takes place on the course from which he is transferring is not counted as a year spent on a previous course.

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

Miscellaneous

36.—(1) An eligible student is not prevented from qualifying for fee support under this Part—

(a) by virtue of having an honours degree from an institution in the United Kingdom if—

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

(ii) 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

(iii) the student is not a qualified teacher.

(b) by virtue of having an honours degree from an institution in the Republic of Ireland for which he received financial support under previous regulations if—

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

(ii) 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

(iii) the student is not a qualified teacher.

(2) Where the current course is considered to be a single course because of regulation 6(5) and (6) and it leads to an honours degree from an institution in the United Kingdom or relevant institution of higher education in the Republic of Ireland 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.

(3) 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**).

(4) 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.

(**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.

PART 5

GRANTS FOR LIVING AND OTHER COSTS

CHAPTER 1

TYPES OF GRANTS AVAILABLE

Current system students

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

(a) disabled students' allowance;

(b) grant for students who have left care;

(c) grant for dependants;

(d) grant for travel;

(e) maintenance grant or special support grant.

Old system students

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

(a) disabled students' allowance;

(b) grant for students who have left care;

(c) grant for dependants;

(d) grant for travel;

(e) higher education bursary.

CHAPTER 2

GENERAL PROVISIONS

General qualifying conditions for grants for living and other costs

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

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

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

(2) An eligible student does not qualify for—

(a) a bursary or grant under this Part if the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9;

(b) a bursary under regulation 62 in respect of any academic year of a part-time course for the initial training of teachers referred to in paragraph 5 of Schedule 3.

(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 for living and other costs 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 or the Republic of Ireland;

(b) unpaid service with a local authority in the United Kingdom or the Republic of Ireland 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 or the Republic of Ireland;

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

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

(e) unpaid service with—

(i) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972;

(ii) a Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(**a**);

(iii) a special agency established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(**b**)

(iv) a Health Authority or a Strategic Health Authority established pursuant to section 8 of the National Health Service Act 1977(**c**), a Special Health Authority established pursuant to section 11 of that Act(**d**) or a Local Health Board established pursuant to section 16BA of that Act(**e**);or

(v) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(**f**).

(7) Where one of the events listed in paragraph (8) 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 he does not qualify for a grant for living and other costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(8) The events are—

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

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

(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;

(**a**) S.I. 1991/194 (N.I. 1); Article 10 was amended by the Health and Personnel Social Services (Northern Ireland) Order 1994 (S.I. 1994/429 (N.I. 2)) Article 3(8)

(**b**) S.I. 1990 No. 247 (N.I. 3)

(**c**) 1977 c. 49; section 8 was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 1(2)

(**d**) Section 11 was amended by the Health Authorities Act 1995 (c. 17), section 2 and Schedule 1, paragraph 2 and the Health Act 1999 (c. 8), Schedule 4, paragraph 6

(**e**) Section 16BA was inserted by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 6(1)

(**f**) 1978 c. 29

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

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

(9) Subject to paragraph (10), an eligible student does not qualify for a grant under this Part in respect of an academic year during any part of which he is a prisoner.

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

Students who are treated as in attendance

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

(a) disabled students' allowance;

(b) grant for students who have left care;

(c) grant for dependants;

(d) maintenance grant or special support grant;

(e) higher education bursary.

(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 or the Republic of Ireland but is not in attendance because he is unable to attend for a reason which relates to his disability.

CHAPTER 3

DISABLED STUDENTS' ALLOWANCES

Qualifying conditions for the disabled students' allowance

41. An eligible student qualifies for a grant to assist with the additional expenditure which the Department is satisfied that the student is obliged to incur in connection with his attendance on a designated course by reason of a disability to which he is subject.

Amount of the disabled students' allowance

42.—(1) Subject to the following paragraphs, the amount of the disabled students' allowance is the amount that the Department 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) £20,000 in respect of an academic year for expenditure on a non-medical personal helper;

(b) £5,030 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;

(c) the additional expenditure incurred—

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

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

(d) £1,680 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the 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 (2)(d) is £15,000 and £1,260, 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

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 45 to 48.

Grant for students who have left care

44.—(1) An eligible student shall qualify for a grant under this regulation in connection with his attendance on a designated course if the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are—

(a) the eligible student is under the age of 21 on the first day of the course;

(b) the eligible student has left care, that is to say he last ceased to fall within paragraph 2(1)(f) of Schedule 5 before 1st September 2005; and

(c) in the opinion of the Department, the eligible student is subject to greater financial hardship by virtue of falling within paragraph 2(1)(f) of Schedule 5 than he would otherwise have been.

(3) Subject to paragraph (4), the amount of grant shall be such amount as the Department considers appropriate in the circumstances.

(4) The maximum amount of grant is £100 for each week or part of a week in an academic year which—

(a) falls within the longest vacation taken; and

(b) during no part of which week the student attends his course.

Adult dependants' grant

45.—(1) An eligible student qualifies for an adult dependants' grant in connection with his 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 £3,700.

(3) The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 48, the basic amount being—

(a) £2,575; 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 £2,575 as the Department considers reasonable in the circumstances.

Childcare grant

46.—(1) An eligible student qualifies for a childcare grant in connection with his 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 the eligible student 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 Article 3 of the Education (Northern Ireland) Order 1996(**a**) and is under the age of 17 immediately before the beginning of the academic year.

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

(4) An eligible student does not qualify for a childcare grant if the prescribed childcare charges that he incurs for his child are paid or to be paid by him to his 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

(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 the student 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(**c**).

Parents' learning allowance

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

(2) The amount of parents' learning allowance payable in respect of an academic year is calculated in accordance with regulation 48, the basic amount being £1,470.

(**a**) S.I. 1996/274 (N.I. 1)

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

(**c**) 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) sets out the charges that are prescribed for the purposes of section 12 of the Tax Credits Act 2002.

Calculations

48.—(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 45 to 47 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 45;

(b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 46; and

(c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 47.

(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

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

(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 he 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) £1,130 where the eligible student has no dependent child;

(b) £3,385 where the eligible student is not a lone parent and has one dependent child;

(c) £4,510 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) £5,645 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 39(8).

(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 Department 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 Department, the longest of any vacation occurs;

(b) otherwise, a quarter other than the one quarter during which, in the opinion of the Department, 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.

Interpretation of Chapter 4

49.—(1) In regulations 45 to 48—

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

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

(c) "dependant" means, in relation to an eligible student, his partner, his 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 he were his spouse where an eligible student falls within paragraph 2(1)(a) of Schedule 5 and began the specified designated course on or after 1st September 2000;

(iv) a person ordinarily living with an eligible student as if he were his civil partner where an eligible student falls within paragraph 2(1)(a) of Schedule 5 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 Department, 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 he would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom he is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5;

(k) for the purposes of the definitions of "child" and "lone parent", a person is to be treated as a partner if he 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 he is ordinarily living does not fall within paragraph 2(1)(a) of Schedule 5;

(l) for the purposes of regulation 46—

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

(ii) a person is to be treated as a partner if he would be a partner under sub-paragraph (h) but for the fact that the eligible student with whom he is ordinarily living does not fall within paragraph (2)(1)(a) of Schedule 5;

(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 ordinarily living with an eligible student's partner as if he were his spouse;

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

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

(i) is not dependent on—

(aa) the eligible student; or

(bb) his partner; but

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

(o) the Department 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 Department 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 his 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 (Northern Ireland) Act 1992(**a**);

(c) any financial support payable to the dependant by an adoption agency in accordance with regulations made under Article 59A of the Adoption (Northern Ireland) Order 1987(**b**);

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

(e) in the case of a dependant with whom a child being looked after by an authority is placed, any payment made to that dependant in pursuance of Article 27 of the Children (Northern Ireland) Order 1995(**c**);

(f) any payments made to the dependant under Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995 in respect of a person who is not the dependant's child or any assistance given by an authority pursuant to Article 35 of that Order; and

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

(3) Where an eligible student or his 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 Department the obligation had been reasonably incurred; or

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

(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.

CHAPTER 5

GRANTS FOR TRAVEL

General

50. A grant for travel is available—

(a) to eligible students attending courses in medicine or dentistry in accordance with regulation 51;

(b) to eligible students attending an overseas institution or the Institute in accordance with regulation 53.

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

51. 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 he is obliged to incur in an academic year for the purpose of

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(**a**) 1992 c. 7
(**b**) S.I. 1987/2203 (N.I. 22); Article 59A was inserted by paragraph 164 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755) (N.I.2)
(**c**) S.I. 1995/755 (N.I. 2)
(**d**) 2002 c. 21 to which there are amendments not relevant to these Regulations

attending in connection with his course any hospital or other premises in the United Kingdom or the Republic of Ireland (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

52. The amount of grant payable under regulation 51 in respect of an academic year is equal to the reasonable expenditure that the Department determines the eligible student is obliged to incur for the purposes set out in that regulation less £295.

Qualifying conditions for the grant for travel – overseas study

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

Amount of the grant for travel – overseas study

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

$(X - £295) + Y$ 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 53.

Y is the aggregate of the expenditure incurred in each qualifying quarter specified in regulation 55.

55. 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 he 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

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

Interpretation

57. 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 his course an overseas institution or the Institute for at least half the period covered by that quarter.

CHAPTER 6

MAINTENANCE GRANTS FOR CURRENT SYSTEM STUDENTS

Qualifying conditions for the maintenance grant

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

(2) A current system student does not qualify for a maintenance grant if he 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, he cannot qualify for a maintenance grant for that year unless the reason that he 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

59.—(1) The maximum amount of maintenance grant in respect of an academic year is—

(a) in the case of a type 1 teacher training student, £1,667;

(b) in the case of a type 2 teacher training student, £3,335; and

(c) in the case of a current system student other than a type 1 or type 2 teacher training student, £3,335.

(2) A type 1 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, he receives £1,667;

(b) where the household income exceeds £18,360 but does not exceed £27,810, he receives an amount equal to $M - \left(\frac{A}{2}\right)$

where

M is £1,667

A is £1 for every complete £4.55 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,810 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £630.

(3) A type 2 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, he receives £3,335;

(b) where the household income exceeds £18,360 but does not exceed £27,810, he receives an amount equal to $M - A$ where—

M is £3,335

A is £1 for every complete £4.55 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,810 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £1,260.

(4) A current system student other than a type 1 or type 2 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, he receives £3,335;

(b) where the household income exceeds £18,360 but does not exceed £27,810, he receives an amount equal to $M - A$ where—

M is £3,335

A is £1 for every complete £4.55 by which the household income exceeds £18,360;

(c) where the household income exceeds £27,810 but does not exceed £39,305, he receives an amount equal to $RM - A$ where—

RM is £1,260

A is £1 for every complete £9.50 by which the household income exceeds £27,810;

(d) where the household income exceeds £39,305, no maintenance grant is payable.

CHAPTER 7

SPECIAL SUPPORT GRANTS FOR CURRENT SYSTEM STUDENTS

Qualifying conditions for the special support grant

60.—(1) A current system student qualifies in accordance with this regulation for a special support grant in connection with his 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 he—

(a) falls within a prescribed category of person for the purposes of section 123(1)(e) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**); or

(b) is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 129(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, he cannot qualify for a special support grant for that year unless the reason that he 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

61.—(1) The maximum amount of special support grant available in respect of an academic year is—

(a) in the case of a type 1 teacher training student, £1,667;

(b) in the case of a type 2 teacher training student, £3,335;

(c) in the case of a current system student other than a type 1 or type 2 teacher training student, £3,335.

(2) A type 1 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, he receives £1,667;

(**a**) 1992 c. 7; section 123(1)(e) was inserted by paragraph 13(5) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)).The relevant regulation is regulation 4ZA of the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459). Regulation 4ZA was inserted by regulation 4 of S.R. 1996 No. 199 ; relevant amending Rules are the Schedule to S.R. 2000 No. 241, regulation 5(3) of S.R. 2000 No. 71 and paragraph 1 of Schedule 1 to S.R. 2005 No. 319 (c.23)

(**b**) Section 129(2) was amended by Article 8 (2) of the Housing Support Services (Northern Ireland) Order 2002, S.I. 2002/3154 (N.I. 8). The relevant regulation is regulation 53 of the Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405)

(b) where the household income exceeds £18,360 but does not exceed £27,810, he receives an amount equal to $M - \left(\frac{A}{2}\right)$ where—

M is £1,667

A is £1 for every complete £4.55 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,810 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £630.

(3) A type 2 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, he receives £3,335;

(b) where the household income exceeds £18,360 but does not exceed £27,810, he receives an amount equal to $M - A$ where—

M is £3,335

A is £1 for every complete £4.55 by which the household income exceeds £18,360; and

(c) where the household income exceeds £27,810 or he opts when applying for the grant not to provide the information needed to calculate the household income, he receives £1,260.

(4) A current system student other than a type 1 or type 2 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, he receives £3,335;

(b) where the household income exceeds £18,360 but does not exceed £27,810, he receives an amount equal to $M - A$ where—

M is £3,335

A is £1 for every complete £4.55 by which the household income exceeds £18,360;

(c) where the household income exceeds £27,810 but does not exceed £39,305, he receives an amount equal to $RM - A$ where—

RM is £1,260

A is £1 for every complete £9.50 by which the household income exceeds £27,810; and

(d) where the household income exceeds £39,305, no special support grant is payable.

CHAPTER 8

HIGHER EDUCATION BURSARIES FOR OLD SYSTEM STUDENTS

Qualifying conditions for and amounts of the higher education bursary

62.—(1) Subject to paragraph (2), an old system student who qualifies for a grant for fees under Chapter 3 of Part 4 and who is under the age of 60 on the relevant date qualifies for a higher education bursary in accordance with his attendance on a designated course.

(2) If an old system student does not qualify for a grant for fees in respect of an academic year of the designated course, he cannot qualify for a higher education bursary for that year unless the reason that he does not qualify for a grant for fees is because—

(a) the year is an Erasmus year; or

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

(3) The amount of bursary payable in respect of any academic year shall be determined by reference to the household income ascertained under paragraph 3 of Schedule 5 in accordance with the following table—

Residual Income (£)	*Bursary (£)*
Up to 11,275	2,000
11,276 to 12,000	1,870
12,001 to 13,000	1,695
13,001 to 14,000	1,515
14,001 to 15,000	1,340
15,001 to 16,000	1,160
16,001 to 17,000	985
17,001 to 18,000	840
18,001 to 19,000	690
19,001 to 20,000	545
20,001 to 21,000	395
21,001 to 22,000	245
22,001 to 22,550	165
22,551 and over	Nil

PART 6

LOANS FOR LIVING COSTS

CHAPTER 1

QUALIFYING CONDITIONS

Qualifying conditions for the loan for living costs – current system students

63.—(1) Subject to paragraphs (3) to (5), a current system student qualifies for a loan for living costs in connection with his attendance on a designated course if he meets the following conditions—

(a) he is under the age of 60 on the relevant date; and

(b) he does not have an honours degree from—

(i) an institution in the United Kingdom; or

(ii) an institution in the Republic of Ireland for which he received financial support under previous regulations.

(2) The condition in paragraph (1)(b) does not apply where—

(a) the designated course is considered to be a single course under regulation 6(5);

(b) the designated course leads to qualification as a social worker in the United Kingdom;

(c) the current system student is eligible to receive a healthcare bursary the amount of which is calculated by reference to his income or a Scottish healthcare allowance the amount of which is calculated by reference to his 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—

(a) he is in receipt of funding from the Department to participate in a management development programme known as the Business Education Initiative; or

(b) the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.

(4) A current system student does not qualify for a loan for living costs in connection with his 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 in respect of an academic year during any part of which he is a prisoner.

(6) To receive a loan for living costs, a current system student must enter into a contract with the Department.

Qualifying conditions for the loan for living costs – old system students

64.—(1) Subject to paragraphs (4) to (6), an old system student who falls within paragraph (a), (b),(e)(i) or (f) of the definition of "old system student" in regulation 2 qualifies for a loan for living costs in connection with his attendance on a designated course if he is under the age of 60 on the relevant date.

(2) Subject to paragraph (4), an old system student who falls within paragraph (c), (d) or (e)(ii) of the definition of "old system student" in regulation 2 qualifies for a loan for living costs in connection with his attendance on a designated course if he meets the following conditions—

(a) he is under the age of 60 on the relevant date; and

(b) he does not have an honours degree from—

(i) an institution in the United Kingdom; or

(ii) an institution in the Republic of Ireland for which he received financial support under previous regulations.

(3) The condition in paragraph (2)(b) does not apply where—

(a) the designated course is considered to be a single course under regulation 6(5);

(b) the designated course leads to qualification as a social worker in the United Kingdom;

(c) the old system student is eligible to receive a healthcare bursary the amount of which is calculated by reference to his income or a Scottish healthcare allowance the amount of which is calculated by reference to his income in respect of any academic year of the course; or

(d) 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—

(a) he is in receipt of funding from the Department to participate in a management development programme known as the Business Education Initiative; or

(b) the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.

(5) An old system student does not qualify for a loan for living costs in connection with his 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 in respect of an academic year during any part of which he is a prisoner.

(7) To receive a loan for living costs, an old system student must enter into a contract with the Department.

CHAPTER 2

MAXIMUM AMOUNTS OF LOANS

General

65.—(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 current system student with full entitlement, in accordance with regulation 66 or 67;

(b) where the eligible student is an old system student with full entitlement, in accordance with regulation 68;

(c) where the eligible student is a student with reduced entitlement, in accordance with regulation 69.

Current system students with full entitlement

66.—(1) This regulation applies to a current system student with full entitlement (other than a type 1 or type 2 teacher training student where his contribution exceeds nil).

(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, £3,580;

(ii) for a student in category B, £6,475;

(iii) for a student in category C, £5,510;

(iv) for a student in category D, £4,625;

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, £3,235;

(ii) for a student in category B, £5,895;

(iii) for a student in category C, £4,790;

(iv) for a student in category D, £4,280;

Y is the maintenance grant amount.

(4) In this regulation, "the maintenance grant amount" is—

(a) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant not exceeding £1,260, the amount of maintenance grant payable;

(b) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant exceeding £1,260, but less than £3,335, £1,260 with the addition of the amount calculated at paragraph (5);

(c) where the student qualifies under regulation 59(2)(b) for an amount of maintenance grant exceeding £1,260, but not exceeding £1,667, £1,260 with the addition of the amount calculated at paragraph (6);

(d) where the student qualifies under Chapter 6 of Part 5 for an amount of maintenance grant of £3,335, £1,760; and

(e) where no maintenance grant is payable, nil.

(5) For the purposes of paragraph (4)(b) the maintenance grant amount is the amount by which the grant calculated at sub-paragraph (b) exceeds the amount calculated at sub-paragraph (a)—

(a) $£1{,}575 - \left(\frac{A - £18{,}360}{£6} \right)$

(b) $£2{,}075 - \left(\frac{A - £18{,}360}{£4.55} \right)$

where A is the household income.

(6) For the purposes of paragraph (4)(c) the maintenance grant amount is the amount by which the grant calculated at sub-paragraph (b) exceeds the amount calculated at sub-paragraph (a)—

(a) $£787 - \left(\frac{A - £18{,}360}{£12} \right)$

(b) $£1{,}037 - \left(\frac{A - £18{,}360}{£9.11} \right)$

where A is the household income.

Type 1 and type 2 teacher training students

67.—(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.

(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, £3,580;

(b) for a student in category B, £6,475;

(c) for a student in category C, £5,510;

(d) for a student in category D, £4,625.

(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, £3,235;

(b) for a student in category B, £5,895;

(c) for a student in category C, £4,790;

(d) for a student in category D, £4,280.

Old system students with full entitlement

68.—(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 equal to X — Y where—

X is—

(a) for a student in category A, £3,580;

(b) for a student in category B, £6,475;

(c) for a student in category C, £5,510;

(d) for a student in category D, £4,625;

Y is the reduction.

(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 equal to X— Y where—

X is—

(a) for a student in category A, £3,235;

(b) for a student in category B, £5,895;

(c) for a student in category C, £4,790;

(d) for a student in category D, £4,280;

Y is the reduction.

(3) In this regulation, "the reduction" is—

(a) for students eligible for the maximum bursary of £2,000, £1,500; and

(b) in all other cases the amount of bursary for which the student is eligible, subject to paragraph (4).

(4) Where the maximum amount of loans set out in paragraphs (1) and (2) are reduced under paragraph (3), such reductions shall not have effect so as to reduce the amount of loan below the amount applicable to the student under regulation 69(1)(d) or (2)(d).

Students with reduced entitlement

69.—(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 39(3)(a)—

(i) for a student in category A, £1,700;

(ii) for a student in category B, £3,180;

(iii) for a student in category C or D, £2,265.

(b) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 39(3)(b) or (5)—

(i) for a student in category A, £1,700;

(ii) for a student in category B, £3,180;

(iii) for a student in category C, £2,710;

(iv) for a student in category D, £2,265.

(c) where a current system 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, £2,685;

(ii) for a student in category B, £4,855;

(iii) for a student in category C, £4,135;

(iv) for a student in category D, £3,470;

Y is the amount specified in paragraph (3).

(d) Where an old system student applies for a loan for living costs and opts not to provide information needed to calculate the household income—

(i) for a student in category A, £2,050;

(ii) for a student in category B, £4,945;

(iii) for a student in category C, £3,980;

(iv) for a student in category D, £3,095.

(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 39(3)(a)—

(i) for a student in category A, £1,290;

(ii) for a student in category B, £2,435;

(iii) for a student in category C or D, £1,765;

(b) where the student does not qualify for a grant for living and other costs in relation to the academic year because of regulation 39(3)(b) or (5)—

(i) for a student in category A, £1,290;

(ii) for a student in category B, £2,435;

(iii) for a student in category C, £1,980;

(iv) for a student in category D, £1,765;

(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, £2,425;

(ii) for a student in category B, £4,420;

(iii) for a student in category C, £3,595;

(iv) for a student in category D, £3,210;

Y is the amount specified in paragraph (3).

(d) Where an old system student applies for a loan for living costs and opts not to provide information needed to calculate the household income—

(i) for a student in category A, £1,705;

(ii) for a student in category B, £4,365;

(iii) for a student in category C, £3,260;

(iv) for a student in category D, £2,750.

(3) The specified amount is—

(a) £630 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 £630;

(b) £1,260 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 £1,260;

(c) nil where the student is not a type 1 or type 2 teacher training student.

CHAPTER 3

LONG COURSES LOAN

Long courses loan

70.—(1) An eligible student qualifies for a long courses loan in connection with his attendance on a designated course if he meets the following conditions—

(a) he qualifies for a loan for living costs under this Part;

(b) he is required to attend his course for a period exceeding 30 weeks and 3 days in an academic year; and

(c) he 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 an eligible student is required to attend his 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 an eligible student attends his 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 he does not attend is multiplied by the relevant amount in paragraph (5);

(5) The amount is—

(i) for a student in category A, £53;

(ii) for a student in category B, £103;

(iii) for a student in category C, £112;

(iv) for a student in category D, £81.

(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

71.—(1) Subject to regulation 74, 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 Department;

(b) in any other case, in respect of the quarter in which, in the opinion of the Department, the longest of any vacation occurs.

(3) The long courses loan is not payable in respect of the quarter nominated by the Department.

Students falling into more than one category

72. Where an eligible student falls into more than one of the categories set out in regulation 78 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

73.—(1) Where an eligible student resides at his parents' home and the Department is satisfied that in all the circumstances his parents by reason of age, incapacity or otherwise cannot reasonably be expected to support him 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 his case, the student must be treated as if he were not residing at his parents' home for the purposes of this Part.

Students becoming eligible in the course of an academic year

74.—(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, his spouse, his civil partner or his 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 Part 2 of Schedule 2; 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

75.—(1) A student to whom this regulation applies is treated as if he were 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 or the Republic of Ireland but is not in attendance because he is unable to attend for a reason which relates to his disability.

Deductions from loans for living costs

76.—(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 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 student with reduced entitlement.

Applying for an additional amount of loan for living costs or long courses loan

77.—(1) An eligible student may apply to borrow an additional amount of loan for living costs or long courses loan where—

(a) the Department 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 Department 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 his ability to qualify for the loan or loans in question or the amount of loan or loans in question for which he 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 he is entitled in relation to the academic year, he may apply to borrow an additional amount which, when added to the amount already applied for, does not exceed the relevant maximum applicable in his case.

Categories of student

78. In this Part—

(a) a student is in category A if he resides at his parents' home while attending the designated course or if he is a member of a religious order who resides in a house of that order;

(b) a student is in category B if he is not in category A and he 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 he 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 he is not in category A and—

(i) he attends as part of his course an overseas institution; or

(ii) he attends the Institute;

(d) a student is in category D if he is not in categories A to C.

Interpretation of Part 6

79. In this Part—

(a) a "current system student with full entitlement" is a current system student other than a student with reduced entitlement;

(b) an "old system student with full entitlement" is an old system student other than a student with reduced entitlement;

(c) the "relevant date" means the first day of the first academic year of the specified designated course;

(d) 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 39(3)(a) or (b) or 39(5); or

(ii) opts when applying for a loan for living costs not to provide the information needed to calculate the household income;

(e) 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.

PART 7

COLLEGE FEE LOANS

General

80. An eligible student or person treated as an eligible student qualifies for a college fee loan in connection with his attendance on a qualifying course in accordance with this Part.

Qualifying conditions

81.—(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 his attendance on a qualifying course if he—

(a) has an honours degree from an institution in the United Kingdom;

(b) is taking a qualifying course which he—

(i) began on or after 1st September 2006 and on which he is continuing after 31st August 2008; or

(ii) begins on or after 1st September 2008;

(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 2 does not qualify for a college fee loan under this Part if he is ordinarily resident in England or Wales.

(3) An eligible student who falls within paragraph 9 of Part 2 of Schedule 2 and who is ordinarily resident in Scotland does not qualify for a college fee loan if he is settled in the United Kingdom other than by reason of having acquired the right of permanent residence or if he is the family member of such a person.

Persons to be treated as eligible students

82. A person is a "person treated as an eligible student" if—

(a) none of the circumstances in regulation 5(3) applies to him; and

(b) either—

(i) he would have fallen within paragraph 3, 6, 7, 10 or 11 of Part 2 of Schedule 2 if any requirement in those paragraphs to be ordinarily resident in Northern Ireland 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 Northern Ireland had been a requirement to be working or self-employed in Scotland; or

(ii) he 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 2 if the requirement in that paragraph to be ordinarily resident in Northern Ireland at a particular time had been a requirement to be ordinarily resident in Scotland.

Disabled students

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

Students becoming eligible during the course of an academic year

84.—(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, his spouse, his civil partner or his 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 2) of a national of that state;

(c) the student becomes a family member (as defined in Part 1 of Schedule 2) 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 Northern Ireland 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 2 or would have become such a person if the requirement to be ordinarily resident in Northern Ireland and the requirement to be working or self-employed in Northern Ireland in paragraph 6 of Schedule 2 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

85.—(1) To receive a college fee loan, a qualifying student must enter into a contract with the Department.

(2) 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.

(3) 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.

(4) 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

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

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

Transfers

87. Despite regulation 8, where a qualifying student transfers from one qualifying course to another qualifying course—

(a) the Department 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 102 are met and he cannot qualify for another college fee loan in respect of that academic year;

(c) if the student transfers after the college fee loan is paid and before the end of the academic year, he cannot apply for another college fee loan in connection with the academic year of the qualifying course to which he transfers.

PART 8

INTEREST AND INSOLVENCY

Interest

88.—(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 2007 and that index so published for March 2008.

(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.

(**a**) S.I. 1980/51, amended by S.I. 1989/596 and S.I. 1999/3177
(**b**) 1974 c. 39

(4) The index of prices to which the Department is required by Article 3(8) of the Order to have regard in prescribing the rate of interest which loans bear is the retail prices all items index mentioned in paragraph (1).

Insolvency

89.—(1) In Northern Ireland—

(a) there shall not be treated as part of a bankrupt's estate or claimed for his 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 he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy; and

(b) there shall not be included in a person's bankruptcy debts any debt or liability to which he is or may become subject in respect of any sum payable to an eligible student by way of loan and which he receives or is entitled to receive—

(i) in the case of a bankruptcy commencing before 15th January 2005, after the commencement of the bankruptcy; or

(ii) in the case of a bankruptcy commencing on or after 15th January 2005, before or after the commencement of the bankruptcy.

(2) In England and Wales—

(a) there shall not be treated as part of a bankrupt's estate or claimed for his estate under section 307 or 310 of the Insolvency Act 1986(**b**) any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy; and

(b) there shall not be included in a person's bankruptcy debts any debt or liability to which he is or may become subject in respect of any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive—

(i) in the case of a bankruptcy commencing before 15th January 2005, after the commencement of the bankruptcy; or

(ii) in the case of a bankruptcy commencing on or after 15th January 2005, before or after the commencement of the bankruptcy.

(3) In this regulation, "loan" means a loan pursuant to regulations made by the Department under Article 3 of the Order, including the interest on the loan and any penalties or charges incurred in connection with it.

PART 9

FINANCIAL ASSESSMENT

Calculation of contribution

90.—(1) An eligible student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 5.

(2) For the purposes of the exercise of the Department's functions under the Order and regulations made under it, it may require an eligible student to provide from time to time such

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(**a**) S.I. 1989/2405 (N.I. 19); Article 280 was amended by the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), Article 17(4). Article 283 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), Schedule 1, paragraph 11, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), and the Insolvency (Northern Ireland) Order 2005, Articles 15 and 31 and Schedule 9

(**b**) 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

information as it considers necessary as to the income of any person whose means are relevant to the assessment of the student's contribution.

Application of contribution – current system students

91. In the case of a current system student, the Department must apply the contribution in accordance with regulation 93.

Application of contribution – old system students

92.—(1) Subject to paragraph (3), where the basic amount of the grant for fees has been calculated in accordance with regulation 30(1) or 31(1), to determine the actual amount of grant for fees that is payable, the Department 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 Department must apply the remainder in accordance with regulation 93.

(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 93.

(4) Where the basic amount of the grant for fees has been calculated in accordance with regulation 30(2) or regulation 31(2) and one of the cases set out in regulation 23(3)(b) or (d) applies, to determine the actual amount of the grant for fees that is payable, the Department 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 93.

(5) In the case of an Erasmus year, the Department must apply the amount by which the contribution exceeds £1,255 in accordance with regulation 93.

(6) Where none of the circumstances in paragraphs (1) to (5) apply, the contribution is applied in accordance with regulation 93.

Order of application

93. 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 48;

(b) second, to reduce the childcare grant calculated in accordance with regulation 48;

(c) third, to reduce the parents' learning allowance calculated in accordance with regulation 48 (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 94;

(e) fifth, to reduce the grant for travel calculated in accordance with Chapter 5 of Part 5.

Minimum level of loan for living costs

94.—(1) Subject to paragraphs (2) and (5), the "minimum level for the academic year" in regulation 93(d) is—

(a) £2,685, in the case of a student in category A;

(b) £4,855, in the case of a student in category B;

(c) £4,135, in the case of a student in category C;

(d) £3,470, 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) £2,425, in the case of a student in category A;

(b) £4,420, in the case of a student in category B;

(c) £3,595, in the case of a student in category C;

(d) £3,210, in the case of a student in category D.

(3) Subject to paragraphs (4) and (5), the "minimum level for the academic year" for an old system student is—

(a) £2,050, in the case of a student in category A;

(b) £4,945, in the case of a student in category B;

(c) £3,980, in the case of a student in category C;

(d) £3,095, in the case of a student in category D.

(4) Subject to paragraph (5), 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" for an old system student is—

(a) £1,705 in the case of a student in category A;

(b) £4,365, in the case of a student in category B;

(c) £3,260, in the case of a student in category C;

(d) £2,750, in the case of a student in category D.

(5) 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 (6) for each of the quarters in respect of which a loan is payable.

(6) The amount determined for each quarter is one third of the amount in paragraph (1), (2), (3) or (4) which corresponds to the rate applicable for the quarter.

(7) The rate applicable for a quarter is determined in accordance with regulation 72.

(8) Categories A to D have the meaning given in regulation 78.

Amount of loan for living costs payable to certain type 1 and type 2 teacher training students

95.—(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) 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

PAYMENT OF GRANTS FOR FEES

Payment of grants for fees

96.—(1) The Department must not pay the grant for fees for which a student qualifies until it 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 Department 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 17, undertake the course; and

(b) the academic authority has determined or agreed that the student will not commence 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 2

PAYMENT OF GRANTS FOR LIVING AND OTHER COSTS

Payment of grants for living and other costs

97.—(1) The Department may pay support under Part 5 in instalments.

(2) Subject to paragraph (3), the Department may pay support under Part 5 at such times as it considers appropriate.

(3) An academic authority is required to send an attendance confirmation to the Department.

(4) The Department 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 it 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 Department has received an attendance confirmation; or

(b) the Department 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 Department considers appropriate and it may make it a condition of entitlement to payment that the eligible student must provide it 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 Department may make a provisional assessment and payment of support under Part 5.

(8) 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.

(9) Where an eligible student's period of eligibility terminates on or after the relevant date, the Department 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").

(10) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(11) If the Department 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) it may treat the excess as an overpayment of that grant; or

(b) if it considers that it is appropriate to do so he 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.

(12) Subject to paragraph (13), 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 Department 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.

(13) Paragraph (12) does not apply to a payment of the disabled students' allowance in respect of specialist equipment.

(14) No support under Part 5 is due in respect of a payment period during any part of which an eligible student is absent from his course, unless in the opinion of the Department it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(15) In deciding whether it would be appropriate for support to be due under paragraph (14) the circumstances to which the Department 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.

(16) An eligible student is not to be considered absent from his course if he is unable to attend due to illness and his absence has not exceeded 60 days.

(17) Where, after the Department has made any payment of support under Part 5 or Part 6, it makes a determination of the amount of a bursary or 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 it must pay the additional amount in such instalments (if any) and at such times as it considers appropriate;

(b) if the determination decreases the amount of that grant for which the student qualifies it 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 bursary or 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 4 of this Part.

CHAPTER 3

PAYMENT OF LOANS

General

98.—(1) Subject to paragraph (2) —

(a) fee loans and fee contribution loans are payable in accordance with regulation 101;

(b) college fee loans are payable in accordance with regulation 102;

(c) loans for living costs and long courses loans are payable in accordance with regulation 103;

(2) Regulations 99 and 100 apply in respect of the payment of all loans.

Provision of United Kingdom national insurance number

99.—(1) The Department may make it a condition of entitlement to payment of any loan that the eligible or qualifying student must provide it with his United Kingdom national insurance number.

(2) Where the Department has imposed a condition under paragraph (1), it must not make any payment of the loan to the eligible or qualifying student before it is satisfied that the student has complied with that condition.

(3) Despite paragraph (2), the Department may make a payment of loan to an eligible or qualifying student if it 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

100.—(1) The Department may at any time request from an applicant, eligible student or qualifying student information that it considers is required to recover a loan.

(2) The Department 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 Department may at any time request from an applicant, eligible student or qualifying student sight of his valid national identity card, his valid passport issued by the state of which he is a national or his birth certificate.

(4) Where the Department has requested information under this regulation, it 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 Department has requested an agreement as to the method of repayment under this regulation, it may withhold any payment of a loan until the person provides what has been requested.

Payment of fee loans and fee contribution loans

101.—(1) The Department 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 Department may pay the fee loan or fee contribution loan in instalments.

(3) The Department must not pay the fee loan or fee contribution loan before—

(a) it 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 Department 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 17, undertake the course; and

(b) the academic authority has determined or agreed that the student will not commence attending in the United Kingdom or the Republic of Ireland 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

102.—(1) The Department 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 Department must pay the college fee loan in a single instalment.

(3) The Department must not pay the college fee loan before—

(a) it 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 Department.

(5) The Department must not pay the college fee loan until it has received an attendance confirmation from the relevant college or permanent private hall unless it determines that owing to exceptional circumstances, it would be appropriate to make a payment without receiving that confirmation.

(6) The Department 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 83, undertake the course; and

(b) the college or permanent private hall has determined or agreed that the student will not commence 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

103.—(1) The Department may pay support under Part 6 in instalments.

(2) Subject to paragraph (4), the Department may pay support under Part 6 at such times as it considers appropriate.

(3) An academic authority is required to send an attendance confirmation to the Department.

(4) The Department 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 it has received an attendance confirmation from the relevant academic authority unless an exception applies.

(5) An exception applies if the Department 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 Department 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 Department considers appropriate and it may make it a condition of entitlement to payment that the eligible

student must provide it 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 Department 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 Department 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 it considers appropriate as soon as is reasonably practicable after a satisfactory application has been received.

(9) 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.

(10) No support under Part 6 is due in respect of a payment period during part of which an eligible student is absent from his course, unless in the opinion of the Department it would be appropriate in all the circumstances for support to be paid in respect of the period of absence.

(11) In deciding whether it would be appropriate for support to be due under paragraph (10) the circumstances to which the Department 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.

(12) An eligible student is not to be considered absent from his course if he is unable to attend due to illness and his absence has not exceeded 60 days.

(13) Where, after the Department has made any payment of support under Part 6 for which a student qualifies in respect of an academic year, it 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) it 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 he 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 4 of this Part.

CHAPTER 4

OVERPAYMENTS

Overpayments of fee support

104. Any overpayment of fee support is recoverable by the Department from the academic authority.

Overpayments of college fee loan

105. Any overpayment of college fee loan is recoverable by the Department from the college or permanent private hall.

Overpayments of support payable under Part 5 or Part 6

106.—(1)An eligible student must, if so required by the Department, repay any amount paid to him under Part 5 or 6 which for whatever reason exceeds the amount of support to which he is entitled under Part 5 or 6.

(2) The Department must recover an overpayment of any bursary or grant for living and other costs unless it considers it is not appropriate to do so.

(3) The methods of recovery are—

(a) subtracting the overpayment from any kind of bursary or grant payable to the student from time to time pursuant to regulations made by the Department under Article 3 of the Order;

(b) taking such other action for the recovery of an overpayment as is available to the Department.

(4) A payment of any bursary or 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 Department 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 Department decides otherwise.

(7) The circumstances are—

(a) the Department 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 his 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 Department may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if it 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 Department—

(a) the overpayment is a result of a failure of the student to provide promptly information which might affect whether he qualifies for the loan in question or the amount of the loan in question for which he 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 Department 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 Department 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 it.

(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 Department may subtract the overpayment from any amount of the loan in question payable to the student from time to time.

CHAPTER 5

INTERPRETATION

Interpretation

107. 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 his disability);

(ii) confirmation from the academic authority that the student has presented himself 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 has not had his status as an eligible student 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 having his status as an eligible student transferred to that course from another course at the same institution;

(b) "payment period" means a period in respect of which the Department 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.

PART 11

SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES

Eligible distance learning students

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) before 25th September 1991; and

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

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

(a) paragraphs (2) and (3) do not apply to him; and

(b) he is an eligible distance learning student for the purposes of this Part.

(9) The conditions in this paragraph are—

(a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the current designated distance learning course pursuant to regulations made by the Department under Article 3 of the Order; and

(b) the person's status as an eligible distance learning student has not terminated.

(10) The conditions in this paragraph are—

(a) the Department 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 Department under Article 3 of the Order; and

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

(11) Where—

(a) the Department determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which his status as an

eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and

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

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

(12) Where—

(a) the Department determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which his status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and

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

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

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Department determined that he was an eligible student or eligible part-time student, as the case may be, before 21st 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

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

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

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

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

(a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and

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(**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 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, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain;

(c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 2) of a national of that state;

(d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;

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

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

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

(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

110.—(1) A course is designated for the purposes of Article 3(1) of the Order and regulation 108 if it is designated by the Department under this regulation.

(2) Subject to paragraph (4), the Department may designate a course under this regulation if in its opinion—

(a) the course is mentioned in Schedule 3 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 Department 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 Department may not designate a course as a designated distance learning course if—

(a) it falls within paragraph 7 or 8 of Schedule 3; and

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

Period of eligibility

111.—(1) A student retains his status as an eligible distance learning student in connection with a designated distance learning course until the status terminates in accordance with this regulation or regulation 108.

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

(3) Subject to the following paragraphs and regulation 108, the period of eligibility terminates at the end of the academic year in which the eligible distance learning student completes the designated distance learning course.

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

(a) withdraws from his designated distance learning course in circumstances where the Department has not transferred or converted or will not transfer or convert his status under regulation 119, 120, 121 or 138; or

(b) abandons or is expelled from his designated distance learning course.

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

(6) If the Department 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 Department may take such of the following actions as it 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 124.

(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 Department may, at any time, renew or extend the period of eligibility for such period as it determines.

Support for distance learning courses

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

(a) a grant in respect of fees not exceeding the lesser of the following amounts—

(i) £1,180; and

(ii) the "actual fees", being the amount of fees charged to the student in respect of an academic year of the designated distance learning course; and

(b) a grant not exceeding £255 for books, travel and other expenditure in connection with the designated distance learning course.

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

(3) An eligible distance learning student does not qualify for support under this regulation if—

(a) he is a disabled student; and

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

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

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

(4) An eligible distance learning student does not qualify for support under this regulation unless the Department considers that he is undertaking the designated distance learning course in Northern Ireland.

(5) An eligible distance learning student does not qualify for support under this regulation if he has undertaken one or more distance learning courses for eight academic years in aggregate and he has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (6).

(6) The loans and grants are—

(a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course pursuant to regulations made under Article 3 of the Order;

(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 Innovation, Universities and Skills pursuant to regulations made under section 22 of the 1998 Act; 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(**a**).

(7) An eligible distance learning student does not qualify for support under this regulation if he holds a first degree from—

(a) an educational institution in the United Kingdom; or

(b) an educational institution in the Republic of Ireland for which he received financial support under previous regulations.

(8) For the purposes of paragraph (7), a degree is not to be treated as a first degree where—

(a) it is a degree (other than an honours degree) that has been awarded to an eligible distance learning student who has completed the required modules, examinations or other forms of assessment for his first degree course; and

(b) the eligible distance learning student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

Amount of support

113.—(1) Subject to paragraph (2) and regulation 119(6), the amount of support payable in respect of an academic year is determined as follows—

(a) if at the date of his application the eligible distance learning student or his partner is entitled—

(i) under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**) to income support and housing benefit; or

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(**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 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)

(**b**) 1992 c.7

(ii) under Part II of the Jobseekers (Northern Ireland) Order 1995(**a**) to income–based jobseeker's allowance or under section 1 of the Employment and Training (Northern Ireland) Act 1950(**b**) to training allowance or training premium; or

(iii) under Article 30A of the Rates (Northern Ireland) Order 1977(**c**) to rates relief;

the maximum amount of support available under regulation 112(1) is payable;

(b) where the relevant income is less than £16,090, the maximum amount of support available under regulation 112(1) is payable;

(c) where the relevant income is £16,090, the maximum amount of support available under regulation 112(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 112(1)(a);

(d) where the relevant income exceeds £16,090 but is less than £24,280, the maximum amount of support available under regulation 112(1)(b) is payable and the amount of support payable under regulation 112(1)(a) is the amount determined in accordance with paragraph (2);

(e) where the relevant income is £24,280, the maximum amount of support available under regulation 112(1)(b) is payable and the amount of support payable under regulation 112(1)(a) is £50;

(f) where the relevant income exceeds £24,280 but is less than £24,875, the maximum amount of support available under regulation 112(1)(b) is payable and no support is payable under regulation 112(1)(a);

(g) where the relevant income is £24,875 or more but less than £26,825, the amount of support payable under regulation 112(1)(b) is the amount left after deducting from the maximum amount of support available under regulation 112(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £24,875, and no support is payable under regulation 112(1)(a);

(h) where the relevant income is £26,825, the amount of support payable under regulation 112(1)(b) is £50, and no support is payable under regulation 112(1)(a);

(i) where the relevant income exceeds £26,825, no support is payable under regulation 112(1).

(2) Where paragraph (1)(d) applies, the amount of support payable under regulation 112(1)(a) is determined by deducting from the maximum amount of support available under regulation 112(1)(a) one of the following amounts—

(a) £50 plus a further £1 for each complete £7.58 by which the relevant income exceeds £16,090; or

(b) where the actual fees are less than £1,180, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between £1,180 and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under regulation 112(1)(a) is payable).

Interpretation of regulation 113

114.—(1) For the purposes of regulation 113—

(a) subject to sub-paragraph (b), "partner" means any of the following—

(**a**) S.I. 1995/2705 (N.I. 15); Part II was amended by Schedule 1 to the Employments Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 N.I. 16)), Schedules 6 and 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), Schedules 7, 8 and 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c.14), Schedule 1 to the National Insurance Contributions Act 2002 (c.19), Schedule 6 to the Income Tax (Earning and Pensions) Act 2003 (c.1), Schedule 24 to the Civil Partnership Act 2004 (c.33) and paragraph 2 of the Schedule to the Pensions (2004 Act and 2005 Order) (PPF Payments and FAS Payments) (Consequential Provisions) Order (Northern Ireland) 2006 (S.R. 2006 No. 37)

(**b**) 1950 c. 29 (N.I.) Section 1(1) was substituted and sub-sections 1(A), 1(B) and 1(C) inserted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(**c**) S.I. 1977/2157 (N.I. 28)

(i) the spouse of an eligible distance learning student;

(ii) the civil partner of an eligible distance learning student;

(iii) a person ordinarily living with an eligible distance learning student as if he were his spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which he is being assessed for support and where he began the specified designated distance learning course before 1st September 2005;

(iv) a person ordinarily living with an eligible distance learning student as if he were his spouse or civil partner where an eligible distance learning student begins the specified designated distance learning course on or after 1st September 2005;

(b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—

(i) in the opinion of the Department, that person and the eligible distance learning student are separated; or

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

(c) "relevant income" has the meaning given in paragraph (2).

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

(i) £2,000 in respect of his partner;

(ii) £2,000 in respect of the only or eldest child who is dependent on the student or his partner; and

(iii) £1,000 in respect of each other child who is dependent on the student or his partner.

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

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

(5) In this regulation—

(a) "child" in relation to an eligible distance learning student includes any child of his partner and any child for whom he has parental responsibility;

(b) "current financial year" means the financial year which includes the first day of the academic year in respect of which a person is being assessed for support;

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

(d) "financial year" means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;

(e) "income" means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;

(f) "preceding financial year" means the financial year immediately preceding the current financial year;

(g) "specified designated distance learning course" means the course in respect of which the person is applying for support or, where the student's status as an eligible distance learning student has been transferred to the current designated distance learning course as a result of one or more transfers of that status by the Department from a distance learning course (the "initial course") in connection with which the Department determined the student to be an eligible distance learning student pursuant to regulations made under

Article 3 of the Order, the specified designated distance learning course is the initial course.

Disabled distance learning students' allowance

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

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

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

(4) An eligible distance learning student does not qualify for the grant under this regulation unless the Department considers that he is undertaking the designated distance learning course in Northern Ireland.

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

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

(a) £20,000 in respect of an academic year for expenditure on a non-medical personal helper;

(b) £5,030 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;

(c) the additional expenditure incurred—

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

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

(d) £1,680 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

Applications for support

116.—(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 Department an application in such form as the Department may require.

(2) The application must be accompanied by—

(a) a declaration under regulation 117 completed by the academic authority; and

(b) such additional documentation as the Department may require.

(3) The Department may take such steps and make such inquiries as it considers necessary to determine whether the applicant is an eligible distance learning student, whether he qualifies for support and the amount of support payable, if any.

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

(5) The general rule is that the application must reach the Department 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 109 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 Department 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 Department as soon as is reasonably practicable; or

(c) the Department 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 Department not later than such date as it specifies.

Declarations provided by academic authorities

117.—(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 Department to accompany the application for support.

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

(3) In this Part, "declaration" means—

(a) where the applicant is applying for support in connection with the designated distance learning course for the first time, a statement that—

(i) provides the course information; and

(ii) confirms that the applicant has undertaken at least two weeks of the designated distance learning course;

(b) in any other case, a statement that—

(i) provides the course information; and

(ii) confirms that the applicant has enrolled to undertake the academic year of the designated distance learning course in respect of which he is applying for support.

(4) In this regulation, "course information" means—

(a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;

(b) certification by the academic authority that it considers the applicant is undertaking the designated distance learning course in Northern Ireland; and

(c) in any case where the applicant is a disabled student, certification by the academic authority that it considers the applicant has chosen to undertake the designated distance learning course for a reason other than he is unable to attend a designated course for a reason which relates to his disability.

Information

118. Schedule 4 deals with the provision of information.

Transfer of status

119.—(1) Where an eligible distance learning student transfers to another distance learning course, the Department must transfer the student's status as an eligible distance learning student to that course where—

(a) it receives a request from the eligible distance learning student to do so;

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

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) the eligible distance learning student starts to undertake another designated distance learning course at the institution;

(b) the eligible distance learning student starts to undertake a designated distance learning course at another institution; or

(c) after commencing a designated distance learning course for a first degree (other than an honours degree) the eligible distance learning student is, before the completion of that course, admitted to a designated distance learning course for an honours degree in the same subject or subjects at the institution.

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

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

(5) An eligible student who transfers under paragraph (1) after the Department has determined his support in connection with the academic year of the course from which he is transferring but before he completes that year may not apply for another grant under regulation 112(1)(b) or regulation 115 in connection with the academic year of the course to which he transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of support under regulation 112(1)(a) in respect of the academic years to and from which he transfers is the amount of support available in connection with the course with the highest actual fees as defined in regulation 112.

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

120.—(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 Department must convert his status as an eligible student to that of an eligible distance learning student in connection with the course to which he is transferring where—

(a) it 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 Department has determined to pay an amount of disabled students' allowance to the student under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible distance learning student;

(b) the maximum amount of disabled distance learning students' allowance to which the student would, apart from this regulation, be entitled in connection with his undertaking a designated distance learning course in respect of that academic year is reduced by one third where the student became an eligible distance learning student in the second quarter of the academic year and by two thirds where he became such a student in a later quarter of that year;

(c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled distance learning students' allowance payable to him for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and

(d) where immediately before he became an eligible distance learning student he was eligible to apply, but had not applied for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum to which he was entitled, he may apply for such a loan or such additional amount of loan as if he had continued to be an eligible student; and in the circumstances mentioned in paragraph (3) the maximum amount or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

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

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

121.—(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 Department must convert his status as an eligible distance learning student to that of an eligible student in connection with the course to which he is transferring where—

(a) it 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 Department has determined to pay an amount of disabled distance learning students' allowance to the student in periodic instalments no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;

(b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which he may be entitled in respect of that year under Parts 4 to 6;

(c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he became such a student in a later quarter of that year; and

(d) where an amount of disabled distance learning students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable to him under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled distance learning students' allowance paid to him for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

Payment of grants for fees

122.—(1) Subject to paragraphs (2) and (3), the Department 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 Department may make payments under paragraph (1) at such times and in such instalments as it sees fit.

(3) The Department may make provisional payments under paragraph (1) in such cases as it deems appropriate.

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

123.—(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 Department considers appropriate and it may make it a condition of entitlement to payment that the eligible distance learning student must provide it 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 Department cannot make a final assessment on the basis of the information provided by the student, it 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 Department 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 Department may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance at such times as it considers appropriate.

(5) The Department 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 it has received a declaration under regulation 117 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 Department has received a declaration;

(b) the Department has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

Overpayments

124.—(1) Any overpayment of a grant in respect of fees is recoverable by the Department from the academic authority.

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

(3) The Department must recover an overpayment of grant for books, travel and other expenditure and disabled distance learning students' allowance unless it 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 Department under Article 3 of the Order;

(b) taking such other action for the recovery of an overpayment as is available to the Department.

(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 Department 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 Department decides otherwise.

(8) The circumstances are—

(a) the Department 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 Department may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if it considers it is appropriate to do so.

PART 12

SUPPORT FOR PART-TIME COURSES

Eligible part-time students

125.—(1) An eligible part-time student qualifies for support in connection with his 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 his application for support the Department determines that the person falls within one of the categories set out in Part 2 of Schedule 2.

(3) A person is not an eligible part-time student if—

(a) there has been made to him or paid to him in connection with the part-time course—

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

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

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

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

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

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

(e) subject to paragraph (4), he 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 he 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 him; and

(b) he 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 Department under Article 3 of the Order; and

(b) the person's status as an eligible part-time student has not terminated.

(9) The conditions in this paragraph are—

(a) the Department has previously determined that the person is—

(i) an eligible student in connection with a designated course; or

(ii) an eligible part-time student in connection with a designated part-time course other than the current designated part-time course;

(b) the person's status as an eligible 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 part-time course as a result of one or more conversions or transfers in accordance with regulations made by the Department under Article 3 of the Order; and

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

(10) Where—

(a) the Department 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 his 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 his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

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

(11) Where—

(a) the Department 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 his 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 he is applying for support.

(12) Paragraphs (10) and (11) do not apply where the student began the course in connection with which the Department determined that he was an eligible part-time student or eligible student, as the case may be, before 1st September 2008.

(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

126.—(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, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain;

(c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 2) of a national of that state;

(d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;

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

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

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

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

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

Designated part-time courses

127.—(1) Subject to paragraphs (2) and (3), a part-time course is designated for the purposes of Article 3(1) of the Order and regulation 125 if—

(a) it is a course mentioned in Schedule 3 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 110.

(2) A course falling within paragraph 7 or 8 of Schedule 3 is not a designated part-time course where the governing body of a maintained school has arranged for the provision of such a course to a pupil of the school.

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

(4) 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**).

(5) 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—

(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 he 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.

(6) For the purposes of Article 3 of the Order and regulation 125(1) the Department may designate courses of higher education which are not designated by paragraph (1).

Period of eligibility

128.—(1) A student retains his status as an eligible part-time student in connection with a designated part-time course until the status terminates in accordance with this regulation or regulation 125.

(2) The period for which an eligible part-time student retains his status is the "period of eligibility".

(3) Subject to the following paragraphs and regulation 124, 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 his designated part-time course in circumstances where the Department has not transferred or converted or will not transfer or convert his status under regulation 137 or 138; or

(b) abandons or is expelled from his 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 127(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 127(1)(c) even if he increases his intensity of study.

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

(7) The Department may terminate the period of eligibility where the eligible part-time student has shown himself by his conduct to be unfitted to receive support.

(8) If the Department 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 Department may take such of the following actions as it 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 141.

(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 Department may, at any time, renew or extend the period of eligibility for such period as it determines.

Assistance for part-time courses

129.—(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 £255 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 2 into which he falls is paragraph 9.

(3) An eligible part-time student qualifies for assistance—

(a) under paragraph (1)(a) if the Department considers that he is undertaking the designated part-time course in Northern Ireland; and

(b) under paragraph (1)(b) if the Department considers that he 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 he has undertaken one or more part-time courses for eight academic years in aggregate and he has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (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 Article 3 of the Order;

(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 pursuant to regulations made under section 22 of the 1998 Act; 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 he holds a first degree from—

(a) an educational institution in the United Kingdom; or

(b) an educational institution in the Republic of Ireland for which he received financial support under previous regulations.

(7) For the purposes of paragraph (6), 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 his 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 his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

Amount of assistance

130.—(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 he successfully completes the academic year in connection with which he 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 127; and

(b) the period ordinarily required to complete the full-time equivalent is to be calculated in accordance with regulation 127.

(4) The "basic grant" is—

(a) £785 where the intensity of study is less than 60 per cent. ("level 1");

(b) £945 where the intensity of study is 60 per cent. or more but less than 75 per cent. ("level 2");

(c) £1,180 where the intensity of study is 75 per cent. or more ("level 3").

(5) Subject to paragraph (6) and regulation 137(6), the amount of assistance payable in respect of an academic year is determined as follows—

(a) the maximum amount of assistance available under regulation 129(1) is payable if at the date of his application the eligible part-time student or his partner is entitled—

(i) under Part VII of Social Security Contributions and Benefits (Northern Ireland) Act 1992 to income support, housing benefit; or

(ii) under Part 2 of the Jobseekers (Northern Ireland) Order 1995 to income–based jobseekers allowance or under section 1 of the Employment and Training (Northern Ireland) Act 1950 to training allowance or training premium; or

(iii) under Article 30A of the Rates (Northern Ireland) Order 1977 to rates relief;

(b) where the relevant income is less than £16,090, the maximum amount of assistance available under regulation 129(1) is payable;

(c) where the relevant income is £16,090, the maximum amount of assistance available under regulation 129(1)(b) is payable together with £50 less than the maximum amount of assistance available under regulation 129(1)(a);

(d) where the relevant income exceeds £16,090 but is less than £24,280, the maximum amount of assistance available under regulation 129(1)(b) is payable and the amount of assistance payable under regulation 129(1)(a) is the amount determined in accordance with paragraph (6);

(e) where the relevant income is £24,280, the maximum amount of assistance available under regulation 129(1)(b) is payable and the amount of assistance payable under regulation 129(1)(a) is £50;

(f) where the relevant income exceeds £24,280 but is less than £24,875, the maximum amount of assistance available under regulation 129(1)(b) is payable and no assistance is payable under regulation 129(1)(a);

(g) where the relevant income is £24,875 or more but less than £26,825, the amount of assistance payable under regulation 129(1)(b) is the amount left after deducting from the maximum amount of assistance available under regulation 129(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £24,875, and no assistance is payable under regulation 129(1)(a);

(h) where the relevant income is £26,825, the amount of assistance payable under regulation 129(1)(b) is £50, and no assistance is payable under regulation 129(1)(a);

(i) where the relevant income exceeds £26,825, no assistance is payable under regulation 129(1).

(6) Where paragraph (5)(d) applies, the amount of assistance payable under regulation 129(1)(a) is determined by deducting from the maximum amount of assistance available under regulation 129(1)(a) one of the following amounts—

(a) £50 plus a further £1 for each complete £11.95, £9.69 or £7.58 by which the relevant income exceeds £16,090 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 129(1)(a) is payable).

Interpretation of regulation 130

131.—(1) For the purposes of regulation 130—

(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 he were his spouse where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which he is being assessed for assistance and where he began the specified designated part-time course before 1st September 2005;

(iv) a person ordinarily living with an eligible part-time student as if he were his 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 Department, 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 his financial resources in the preceding financial year less—

(i) £2,000 in respect of his partner;

(ii) £2,000 in respect of the only or eldest child who is dependent on the student or his partner; and

(iii) £1,000 in respect of each other child who is dependent on the student or his partner.

(3) Where the Department is satisfied that an eligible part-time student's financial resources in the preceding financial year are greater than his financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, it may assess that student's financial resources by reference to those resources in the current financial year.

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

(5) In this regulation—

(a) "child" in relation to an eligible part-time student includes any child of his partner and any child for whom he has parental responsibility;

(b) "current financial year" means the financial year which includes the first day of the academic year in respect of which a person is being assessed for 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) "income" means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;

(f) "preceding financial year" means the financial year immediately preceding the current financial year;

(g) "specified designated 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 Department from a part-time course (the "initial course") in connection with which the Department determined the student to be an eligible part-time student pursuant to regulations made under Article 3 of the Order, the specified designated part-time course is the initial course.

Assistance with fees in respect of attendance on a course in England, Wales or Scotland

132.—(1) The Department may pay support to assist with fees to an eligible part-time student in connection with his attendance on a designated part-time course in England, Wales 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 129(1)(a) had he been undertaking the course in Northern Ireland; and

(b) the maximum amount of support to assist with fees that in the opinion of the Department would have been payable to him according to whether he attends the designated part-time course in England, Wales or Scotland—

(i) pursuant to regulations made by the Secretary of State for Innovation, Universities and Skills under section 22 of the 1998 Act had he been ordinarily resident in England and undertaking the part-time course in England;

(ii) pursuant to regulations made by the Welsh Ministers or the National Assembly for Wales under section 22 of the 1998 Act had he been ordinarily resident in Wales and undertaking the part-time course in Wales; or

(iii) from funds of the Scottish Further and Higher Education Funding Council(**a**) had he been ordinarily resident in Scotland and undertaking the part-time course in Scotland.

Disabled part-time students' allowance

133.—(1) An eligible part-time student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Department is satisfied he is obliged to incur by reason of a disability to which he is subject in respect of his 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 2 into which he falls is paragraph 9.

(3) An eligible part-time student does not qualify for the grant under this regulation unless the Department considers that he 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 Department considers appropriate in accordance with the student's circumstances.

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

(a) £15,000 in respect of an academic year for expenditure on a non-medical personal helper;

(b) £5,030 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;

(c) the additional expenditure incurred—

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

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

(d) £1,260 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

134.—(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 Department an application in such form as the Department may require.

(2) The application must be accompanied by—

(a) a declaration under regulation 135 completed by the academic authority; and

(b) such additional documentation as the Department may require.

(3) The Department may take such steps and make such inquiries as it considers necessary to determine whether the applicant is an eligible part-time student, whether he qualifies for support and the amount of support payable, if any.

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

(5) The general rule is that the application must reach the Department 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**) This body was established under section 1 of the Further and Higher Education (Scotland) Act 2005 (2005 asp 6)

(a) one of the events listed in paragraph (3) of regulation 126 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 Department 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 Department as soon as is reasonably practicable; or

(c) the Department 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 Department not later than such date as it specifies.

Declarations provided by academic authorities

135.—(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 Department 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 he is applying for support.

(4) In this regulation, "course information" means—

(a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;

(b) 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 127(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 127(1)(c);

(b) any parts of the course which the applicant has been required to repeat.

Information

136. Schedule 4 deals with the provision of information.

Transfer of status

137.—(1) Where an eligible part-time student transfers to another part-time course, the Department must transfer the student's status as an eligible part-time student to that course where—

(a) it receives a request from the eligible part-time student to do so;

(b) it 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 commencing 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 he transfers the remainder of the support for which the Department has determined he qualifies in respect of the academic year of the course from which he transfers.

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

(5) An eligible student who transfers under paragraph (1) after the Department has determined his support in connection with the academic year of the course from which he is transferring but before he completes that year may not apply for another grant under regulation 129(1)(b) or regulation 133 in connection with the academic year of the course to which he transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of assistance under regulation 129(1)(a) in respect of the academic years to and from which he 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 130.

Conversion of status

138.—(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 Department 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 he is transferring where—

(a) it 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 127(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 who transfers under paragraph (1)—

(a) where the Department 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 part-time student;

(b) the maximum amount of disabled part-time students' allowance to which the student would, apart from this regulation, be entitled in connection with his undertaking a designated part-time course in respect of that academic year is reduced by one third where the student became an eligible part-time student during the second quarter of the academic year and by two thirds where he became such a student in a later quarter of that year;

(c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled

part-time students' allowance payable to him for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and

(d) where immediately before he became an eligible part-time student he was eligible to apply, but had not applied, for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum to which he was entitled, he may apply for such a loan or such additional amount of loan as if he had continued to be an eligible student; and in the circumstances mentioned in paragraph (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 Department 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 he is transferring where—

(a) it 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 127(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 he transfers the remainder of the support for which the Department has determined he qualifies under Part 11 in respect of the academic year of the designated distance learning course from which he transfers.

(8) The Department may re-assess the amount of support payable after the transfer.

(9) An eligible student who transfers under paragraph (5) after the Department has determined his support in connection with the academic year of the distance learning course from which he is transferring but before he completes that year—

(a) may not apply for a grant under regulation 129(1)(b) if he has already applied for a grant under regulation 112(1)(b);

(b) may not apply for a grant under regulation 133 if he has already applied for a grant under regulation 115.

(10) Where a student transfers under paragraph (5), the total amount of assistance paid to the student under regulations 112(1)(a) and 129(1)(a) in respect of—

(a) the academic year from which he transfers; and

(b) the academic year to which he transfers;

must not exceed the amount of support determined to be payable to the student under regulation 112(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 Department 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 he is transferring where—

(a) it 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 Department 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 he may be entitled in respect of that year under Parts 4 to 6;

(c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he became such a student in a later quarter of that year; and

(d) where an amount of disabled 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 him under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled part-time students' allowance paid to him 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 Department 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 he is transferring where—

(a) it 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 he transfers the remainder of the support for which the Department has determined he qualifies under this Part in respect of the academic year of the designated part-time course from which he transfers.

(15) The Department may re-assess the amount of support payable after the transfer.

(16) An eligible student who transfers under paragraph (13) after the Department has determined his support in connection with the academic year of the part-time course from which he is transferring but before he completes that year—

(a) may not apply for a grant under regulation 112(1)(b) if he has already applied for a grant under regulation 129(1)(b);

(b) may not apply for a grant under regulation 115 if he has already applied for a grant under regulation 133.

(17) Where a student transfers under paragraph (13), the total amount of assistance paid to the student under regulations 112(1)(a) and 129(1)(a) in respect of—

(a) the academic year from which he transfers; and

(b) the academic year to which he transfers;

must not exceed the maximum amount of support determined to be payable to the student under regulation 112(1)(a).

Payment of grants for books, travel and other expenditure and disabled part-time students' allowances

139.—(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 Department considers appropriate and it may make it a condition of entitlement to payment that the eligible part-time student must provide it 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 Department cannot make a final assessment on the basis of the information provided by the student, it 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 Department 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 Department may pay the grant for books, travel and other expenditure and the disabled part-time students' allowance at such times as it considers appropriate.

(5) The Department 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 it has received a declaration under regulation 135 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 Department has received a declaration;

(b) the Department has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

Payment of grants for fees

140.—(1) Subject to paragraphs (2) and (3), the Department 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 Department may make payments under paragraph (1) at such times and in such instalments as it sees fit.

(3) The Department may make provisional payments under paragraph (1) in such cases as it deems appropriate.

Overpayments

141.—(1) Any overpayment of a grant in respect of fees is recoverable by the Department from the academic authority.

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

(3) The Department must recover an overpayment of grant for books, travel and other expenditure and disabled part-time students' allowance unless it 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 Department under Article 3 of the Order;

(b) taking such other action for the recovery of an overpayment as is available to the Department.

(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 Department 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 Department decides otherwise.

(8) The circumstances are—

(a) the Department 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 Department may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if it considers it is appropriate to do so.

PART 13

SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

Eligible postgraduate students

142.—(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 Department is satisfied he is obliged to incur by reason of a disability to which he is subject in respect of his 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 his application for support the Department determines that he 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 2; and

(b) by reason of a disability to which he is subject, he will be obliged to incur additional expenditure in respect of his undertaking the course.

(4) A person is not an eligible postgraduate student if—

(a) there has been made to him or paid to him in connection with the course—

(i) a healthcare bursary;

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

(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 his institution which includes any payment for the purpose of meeting additional expenditure incurred by the student by reason of his disability; or

(v) any allowance, bursary or award of similar description made under section 14(4)(a) of the Health and Personal Social Services Act (Northern Ireland) 2001(**b**) which includes payment for meeting additional expenditure incurred by the student by reason of his disability;

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

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

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(**a**) S.I. 1992/580, as amended by S.S.I. 2002/432, S.S.I. 2003/401 and S.S.I. 2006/323
(**b**) 2001 c.3 (N.I.)

(d) he has, in the opinion of the Department, shown himself by his conduct to be 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 he 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 2 into which he falls is paragraph 9.

(8) An eligible postgraduate student does not qualify for a grant under this Part unless the Department considers that he is undertaking his 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 him; and

(b) he 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 Department under Article 3 of the Order; and

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

(11) The conditions are—

(a) the Department 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 Department under Article 3 of the Order; and

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

(12) Where—

(a) the Department 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 his 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 his 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 he is applying for support.

(13) Where—

(a) the Department 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 his 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 he is applying for support.

(14) Paragraphs (12) and (13) do not apply where the student began the course in connection with which the Department determined that he 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

143.—(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, his spouse, his civil partner or his 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 2);

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

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

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

Designated postgraduate courses

144.—(1) A postgraduate course is designated for the purposes of Article 3 of the Order and regulation 142 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 Article 3 of the Order and regulation 142, the Department may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

145.—(1) A student retains his status as an eligible postgraduate student 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 142, 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 his designated postgraduate course in circumstances where the Department has not transferred or will not transfer his status as an eligible postgraduate student to another course under regulation 146; or

(b) abandons or is expelled from his designated postgraduate course.

(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 he cannot complete the course within the period specified in regulation 144(1)(b)(ii).

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

(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 144(1)(b)(ii).

(7) The Department may terminate the period of eligibility where the eligible postgraduate student has shown himself by his conduct to be unfitted to receive support.

(8) If the Department 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 Department may take such of the following actions as it 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 151.

(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 Department may, at any time, renew or extend the period of eligibility for such period as it determines.

Transfer of status

146.—(1) Where an eligible postgraduate student transfers to another postgraduate course, the Department must transfer the student's status as an eligible postgraduate student to that course where—

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

(b) it 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 he transfers the remainder of the support for which the Department has determined he qualifies in respect of the academic year of the course from which he transfers.

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

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

Applications for support

147.—(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 Department an application in such form and accompanied by such documentation as the Department may require.

(2) The application must reach the Department as soon as is reasonably practicable.

(3) The Department may take such steps and make such inquiries as it considers necessary to determine whether the applicant is an eligible postgraduate student, whether he qualifies for a grant and the amount of grant payable, if any.

(4) The Department must notify the applicant—

(a) whether he qualifies for a grant;

(b) if he 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

148. Schedule 4 deals with the provision of information.

Amount of grant

149.—(1) Subject to paragraph (2), the grant under this Part is such amount as the Department considers appropriate to assist with one or more types of eligible expenditure.

(2) The grant must not exceed £10,000 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

150.—(1) The Department may pay a grant for which a student qualifies under this Part in such instalments (if any) and at such times as it considers appropriate and in the exercise of its functions under this Part it 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 Department considers appropriate and it may make it a condition of entitlement to payment that the eligible postgraduate student must provide it with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

Overpayments

151.—(1) An eligible postgraduate student must, if so required by the Department, repay any amount paid to it under this Part which for whatever reason exceeds the amount of grant to which he is entitled under this Part.

(2) The Department must recover an overpayment of grant under this Part unless it 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 Department under Article 3 of the Order;

(b) taking such other action for the recovery of an overpayment as is available to the Department.

(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 Department 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 Department decides otherwise.

(7) The circumstances are—

(a) the Department 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 Department may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if it considers it is appropriate to do so.

Sealed with the Official Seal of the Department for Employment and Learning on 16th June 2008

L.S.

Sir Reg Empey MLA
Minister for Employment and Learning

SCHEDULE 1

Regulation 3

AMENDMENT OF THE EDUCATION (STUDENT SUPPORT) REGULATIONS (NORTHERN IRELAND) 2007

1. The Education (Student Support) Regulations (Northern Ireland) 2007 shall be amended as provided by paragraphs 2 to 5.

2. After regulation 39(8) (General qualifying conditions for grants for living and other costs) there shall be inserted—

"(9) Subject to paragraph (10), an eligible student does not qualify for a grant under this Part in respect of an academic year during any part of which he is a prisoner.

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

3.—(1) Regulation 63 (Qualifying conditions for the loan for living costs – current system students) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1) for "paragraph (3)", there shall be substituted "paragraphs (3) and (3A)".

(3) After paragraph (3) there shall be inserted—

"(3A) A current system student does not qualify for a loan for living costs in respect of an academic year during any part of which he is a prisoner.".

4.—(1) Regulation 64 (Qualifying conditions for the loan for living costs – old system students) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1) for "paragraph (4)", there shall be substituted "paragraphs (4) and (4A)".

(3) After paragraph (4) there shall be inserted—

"(4A) An old system student does not qualify for a loan for living costs in respect of an academic year during any part of which he is a prisoner.".

5. After regulation 106 (Overpayments of support payable under Part 5 or Part 6) there shall be inserted—

"CHAPTER 4A

106A.—(1) This regulation applies to students who are or have been prisoners during any part of an academic year.

(2) A student who has previously qualified for support payable under Part 5 or 6 in relation to an academic year does not, from the date on which these Regulations come into operation, qualify for that support in respect of that academic year and no further payments of that support are due to the student.

(3) Nothing in this regulation applies to disabled students' allowance.".

SCHEDULE 2 Regulations 5, 108, 125 and 142

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 Northern Ireland; and

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

"EEA frontier worker" means an EEA national who—

(a) is a worker in Northern Ireland; and

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

"EEA 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;

"family member" unless otherwise indicated, 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) his spouse or civil partner;

(ii) his child or the child of his spouse or civil partner; or

(iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;

(b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—

(i) his spouse or civil partner; or

(ii) his child or the child of his spouse or civil partner;

(c) in relation to an EC national who falls within the meaning of article 7(1)(c) of Directive 2004/38—

(i) his spouse or civil partner; or

(ii) direct descendants of his or of his spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependants of his or his spouse or civil partner;

(d) in relation to an EC national who falls within the meaning of article 7(1)(b) of Directive 2004/38—

(i) his spouse or civil partner;

(ii) direct descendants of his or of his spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependents of his or his spouse or civil partner; or

(iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;

(e) in relation to a United Kingdom national, for the purposes of paragraph 9—

(i) his spouse or civil partner; or

(ii) direct descendants of his or his spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependants of his or his spouse or civil partner;

"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 Northern Ireland; and

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

"Swiss frontier self-employed person" means a Swiss national who—

(**a**) 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.

(a) is a self-employed person in Northern Ireland; and

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

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

"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 Northern Ireland, England, Wales, Scotland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

(a) the current course; or

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

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

(4) For the purposes of this Schedule, a person is to be treated as ordinarily resident in Northern Ireland, 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 he would have been so resident but for the fact that—

(a) he;

(b) his spouse or civil partner;

(c) his parent; or

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

is or was temporarily employed outside the area in question.

(5) For the purposes of sub-paragraph (4), temporary employment outside of Northern Ireland, 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 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 Northern Ireland;

(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 Northern Ireland on the first day of the first academic year of the course;

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and

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

Refugees and 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 he was recognised as a refugee; and

(c) who is ordinarily resident in Northern Ireland 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 his application for asylum;

(c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he was given leave to enter or remain in the United Kingdom; and

(d) who is ordinarily resident in Northern Ireland 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 his 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 his application for asylum;

(d) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since he was given leave to enter or remain in the United Kingdom; and

(e) who is ordinarily resident in Northern Ireland 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 Northern Ireland 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 his application for asylum;

(c) who is ordinarily resident in Northern Ireland 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 his 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 his application for asylum;

(d) who is ordinarily resident in Northern Ireland 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 Northern Ireland 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 Northern Ireland on the first day of the first academic year of the course;

(b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

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

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

8.—(1) A person who—

(a) is settled in the United Kingdom;

(b) left Northern Ireland and exercised a right of residence after having been settled in the United Kingdom;

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

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

EC nationals

9.—(1) A person who—

(a) is either—

(i) an EC national on the first day of the first academic year of the course; or

(ii) a family member of a such a person;

(b) is—

(i) attending a designated course in Northern Ireland; or

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

(ii) undertaking a compressed degree course, designated part-time course or a designated postgraduate course in Northern Ireland;

(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 Northern Ireland 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 Northern Ireland on the first day of the first academic year of the course;

(c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

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

Children of Turkish workers

12. A person who—

(a) is the child of a Turkish worker;

(b) is ordinarily resident in Northern Ireland 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 3 Regulations 6(1), 110(1) and 127(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 4 Regulations 11, 118, 136 and 148

INFORMATION

1. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must, as soon as reasonably practicable after he is requested to do so, provide the Department with such information as the Department considers it requires for the purposes of these Regulations.

2. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must forthwith inform the Department and provide it with particulars if any of the following occurs—

(a) he withdraws from, abandons or is expelled from his course;

(b) he transfers to any other course at the same or at a different institution;

(c) he ceases to undertake his course and does not intend to or is not permitted to continue it for the remainder of the academic year;

(d) he is absent from his 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) his home or term-time address or telephone number changes.

3. Information provided to the Department pursuant to these Regulations must be in the format that the Department requires and, if it requires the information to be signed by the person providing it, an electronic signature in such form as the Department may specify satisfies such a requirement.

SCHEDULE 5

Regulation 90

FINANCIAL ASSESSMENT

Definitions

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 he were his spouse where an eligible student falls within paragraph 2(1)(a) and he begins the specified designated course on or after 1st September 2000;

(iv) a person ordinarily living with an eligible student as if he were his civil partner where an eligible student falls within paragraph 2(1)(a) and he 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 he were the parent's spouse;

(iv) a person ordinarily living with the parent of an eligible student as if he were the parent's civil partner;

(k) "preceding financial year" means the financial year immediately preceding the relevant year;

(l) "relevant year" means the academic year in respect of which the household income falls to be assessed;

(m) "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

(n) "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 preceding 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 Department considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5).

Independent eligible student

2.—(1) An independent eligible student is an eligible student where—

(a) he is aged 25 or over on the first day of the relevant year;

(b) he 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) he has no parent living;

(d) the Department is satisfied that neither of his parents can be found or that it is not reasonably practicable to get in touch with either of them;

(e) he has communicated with neither of his parents for the period of one year before the beginning of the relevant year or, in the opinion of the Department, he can demonstrate on other grounds that he is irreconcilably estranged from his parents;

(f) he was looked after by an authority (within the meaning of Articles 25 and 26 of the Children (Northern Ireland) Order 1995(**a**)) throughout any three-month period ending on or after the date on which he attained the age of 16 and before the first day of the first academic year of the course ("the relevant period") provided that he has not in fact at any time during the relevant period been under the charge or control of his parents;

(g) his parents are residing outside the European Community and the Department 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 Department considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);

(i) he 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, he has the care of a person under the age of 18; or

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(**a**) S.I. 1995/755 (N.I. 2)

(k) he has supported himself out of his 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 he is to be treated as supporting himself out of his earnings during any period in which—

(i) he 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) he 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) he 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) he held a state studentship or comparable award; or

(v) he received any pension, allowance or other benefit paid by any person by reason of a disability to which he is subject, or by reason of confinement, injury or sickness.

(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 his 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 Department has selected that parent under paragraph 5(9)); or

(ii) in the case of a new eligible student who began his specified designated course on or after 1st September 2005, the residual income of the partner of the student's parent (provided that the Department 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 £1,100—

(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 his 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 he has leave of absence or is relieved of his 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 under section 188 of the Finance Act 2004(**b**), 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 2 into which an eligible student falls is paragraph 9 and his income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Schedule 2, his income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he is treated no less favourably than a person who is referred to in any paragraph of Part 2 of Schedule 2 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(**c**).

Calculation of parent's residual income

5.—(1) For the purposes of determining the taxable income of an eligible student's parent, 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 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 statutory provision 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 an eligible student's parent, 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

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(**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 and the Income Tax Act 2007, Schedule 1.

(**b**) 2004 c.12; section 188 was amended by the Finance Act 2007, sections 68, 69 and 114 and Schedules 18, 19 and 27.

(**c**) "Financial Statistics" (ISSN 0015-203X).

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 the eligible student's parent's income were in fact income for the purposes of the Income Tax Acts;

(c) in the case of a parent student or an eligible student's parent who holds a statutory award, £1,100.

(3) Where the Department is satisfied that the residual income of the parent in the financial year beginning immediately before the relevant year ("the current financial year") is likely to be not more than 85 per cent. of the sterling value of his residual income in the preceding financial year it may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the parent's residual income for the current financial year.

(4) Where the Department is satisfied that the residual income of the parent in any financial year is, as a result of any event, likely to be and to continue after that year to be not more than 85 per cent. of the sterling value of his residual income in the previous financial year it may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the academic year of the eligible student's course in which that event occurred by taking as the residual income of the parent the average of his residual income for each of the financial years in which that academic year falls.

(5) Where the eligible student's parent satisfies the Department that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then any reference in this Schedule to a preceding financial year means the earliest period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.

(6) Where an eligible student's parent is in receipt of any income which does not form part of his income for the purposes of the Income Tax Acts or the income tax legislation of another Member State by reason only that—

(a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or where his 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 the parent'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,

his taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of his 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 the income of the eligible student's parent 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 the income of the eligible student's parent 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 Department 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 Department considers the more appropriate under the circumstances.

(10) Where the Department 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) 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 Department determines that the eligible student and his 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 Department determines that the eligible student and his partner have separated in the course of the relevant year, the partner's income is determined by reference to his income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Department determines that the eligible student and his 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 to an old system student who is not an independent eligible student is—

(a) In any case where the household income is £23,660 or more, £45 with the addition of £1 for every complete £12.50 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 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 £9.50 by which the household income exceeds £23,660; and

(b) in any case where the household income is less than £23,660, nil.

(3) 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 £9.50 by which the household income exceeds £11,020; and

(b) in any case where the household income is less than £11,020, nil.

(4) The amount of the contribution payable under sub-paragraph (1) or (2) must in no case exceed £8,355.

(5) The contribution may be adjusted in accordance with paragraph 10, 11 or 12.

(6) Where sub-paragraph (7) applies, the aggregate contributions must not exceed £8,355.

(7) 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 his 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 £39,780, £1 for every complete £9.50 by which the household income exceeds £39,780; and

(b) in any case where the household income is £39,780 or less, nil.

(2) The contribution must not in any case exceed £6,055.

(3) The contribution may be adjusted in accordance with paragraph 10, 11 or 12.

(4) Where sub-paragraph (5) applies, the aggregate contributions must not exceed £6,055.

(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 his partner where both hold a statutory award.

Split contributions – eligible students who are not independent

10.—(1) This paragraph applies where a contribution is payable in relation to an eligible student who is not an independent eligible student.

(2) Sub-paragraphs (3) to (7) apply where the children who are eligible students are either all old system students or are all current system students.

(3) For any year in which a statutory award other than an award referred to in sub-paragraph (4) is held by—

(a) more than one child of the eligible student's parents;

(b) the eligible student's parent; or

(c) the eligible student's parent's partner,

the contribution payable in respect of the eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Department after consultation with any other authority involved considers just taking into account the application of paragraph 7 to new eligible students and existing students respectively.

(4) Subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Students Awards) Regulations (Northern Ireland) 2003(**a**), the 1986 Order or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 the amount of which is calculated by reference to his income (and no other statutory award) is held by more than one child of the eligible student's parents, the contribution payable in respect of the eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of children who hold a relevant statutory award.

(5) If, as a result of the apportionment under sub-paragraph (4), the contribution would not be extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is instead applied—

(i) first in relation to the smallest statutory award (or each such statutory award) to which the contribution may apply; and

(ii) then, in increasing order of size, in relation to each remaining statutory award to which the contribution may apply, until the balance of the contribution can be apportioned equally without any part of it remaining or until there remains no part of any statutory award to which the contribution has not been applied.

(6) Where—

(a) the eligible student's parent whose income is assessed under this Schedule has a partner;

(b) a contribution taking into account the residual income of that parent is payable in relation to more than one eligible student who is the child of either that parent or his partner; and

(c) the amount payable in relation to each eligible student is not the same in every case,

the contribution in respect of each eligible student is calculated under sub-paragraph (7).

(7) Where sub-paragraph (6) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (b) of sub-paragraph (6) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory award of the eligible students in his relevant household.

(8) Where—

(a) a contribution taking into account the residual income of the parent of an eligible student is payable in relation to more than one eligible student who is the child of that parent or of the parent's partner; and

(b) the amount payable in relation to each eligible student is not the same in every case because some of the eligible students are old system students and some are current system students,

the contribution in respect of an eligible student is calculated under sub-paragraph (9).

(9) Where sub-paragraph (8) applies, the contribution in respect of an eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of eligible students referred to in paragraph (a) of sub-paragraph (8) in relation to whom a contribution is payable and where the contribution is not extinguished by applying it in respect of the eligible student's statutory award, the remainder of the contribution is applied in the same way as in sub-paragraph (5) to the relevant statutory awards of the other old system students where the eligible student is an old system student and to the relevant statutory awards of the other current system students where the eligible student is a current system student.

(10) Where a contribution taking into account the residual income of the eligible student's parent is payable in respect of more than one child of that parent or that parent's partner, if any, and the residual income of any such eligible student is greater than nil, the contribution in relation to each eligible student is calculated in accordance with the following sub-paragraphs—

(**a**) S.R. 2003 No. 459

(a) the contribution in respect of the eligible student is calculated without reference to paragraph 4 but otherwise in accordance with this Schedule and is apportioned between each eligible student in accordance with this paragraph;

(b) there is then applied in addition in respect of the eligible student a further contribution of £1 for every complete £12.50 by which the sum calculated in respect of the student under paragraph (c) of this sub-paragraph exceeds £23,660 where the student is an old system student or £1 for every complete £9.50 by which the sum calculated is in respect of the student under paragraph (c) exceeds £39,780 where the student is a current system student;

(c) the sum referred to in paragraph (b) is the aggregate of any amounts calculated under paragraphs 4, 5 and 7 (where appropriate) with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 5 and 7 exceeds £23,660 where the student is an old system student or exceeds £39,780 where the student is a current system student.

(11) Subject to sub-paragraph (12), there is added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining—

(a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or

(b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this paragraph.

(12) Where a parent student has a partner within paragraph 1(j), the sums added to his residual income under sub-paragraph (11) of this paragraph are calculated as though the contribution in respect of his children had been assessed taking into account the income of the parent's partner under paragraph 7, whether or not the contribution was actually calculated on that basis.

(13) In this paragraph, "relevant household" means all those eligible students in respect of whom a contribution is calculated with reference to the same income under both paragraphs 5 and 7.

Split contributions – independent eligible students

11.—(1) Where a contribution is payable under paragraph 8 or 9 in relation to an independent eligible student with a partner, the contribution is payable in accordance with the following sub-paragraphs—

(a) for any year in which a statutory award other than an award referred to in paragraph (b) is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the Department after consultation with any other authority involved considers just;

(b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Student Awards) Regulations (Northern Ireland) 2003(**a**), the 1986 Order or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 the amount of which is calculated by reference to his income (and no other statutory award) is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is an amount equal to half the contribution calculated under paragraph 8 or 9;

(c) if, as a result of the apportionment under paragraph (b), the contribution calculated would not be extinguished by applying it in respect of the independent eligible student's statutory award, the remainder of the contribution is instead applied to the relevant statutory award of his partner if they are both old system students or if they are both current system students.

(**a**) S.R. 2003 No. 459

(2) Subject to sub-paragraph (3), there is added to a parent student's residual income for the purpose of calculating the contribution to his statutory award any sum remaining—

(a) where the parent student is the parent of only one eligible student and the contribution payable in respect of that eligible student is greater than the statutory award in respect of that eligible student, the difference between that contribution and that statutory award; or

(b) where a parent student is the parent of more than one eligible student, any sum remaining after the apportionment of the contribution to his children under this Schedule.

(3) Where a parent student has a partner who is also an eligible student and whose income is taken into account in assessing the contribution in relation to the children in sub-paragraph (2), half of the sum calculated under sub-paragraph (2) is added to the parent student's residual income.

SCHEDULE 6

Regulation 2(1)

RELEVANT INSTITUTIONS OF HIGHER EDUCATION IN THE REPUBLIC OF IRELAND

All Hallows College, Drumcondra

Carlow College (St. Patrick's)

Church of Ireland College of Education, Dublin

Colaiste Mhuire, Marino, Dublin

Dublin City University

Dublin Institute of Technology

Dun Laoghaire Institute of Art, Design and Technology

Froebel College of Education, Sion Hill, Co Dublin

Holy Ghost College, Kimmage Manor, Dublin

Institute of Technology, Athlone

Institute of Technology, Blanchardstown

Institute of Technology, Carlow

Institute of Technology, Cork

Institute of Technology, Dundalk

Institute of Technology, Galway/Mayo

Institute of Technology, Letterkenny

Institute of Technology, Limerick

Institute of Technology, Sligo

Institute of Technology, Tallaght

Institute of Technology, Tralee

Mary Immaculate College, Limerick

Mater Dei Institute of Education

Milltown Institute of Theology and Philosophy, Dublin

Montessori College, (A.M.I.), Mount St Mary's, Dublin

National College of Art and Design, Dublin

National College of Ireland, Dublin

National University of Ireland, Dublin

National University of Ireland, Cork

National University of Ireland, Galway

National University of Ireland, Maynooth

Pontifical University of Maynooth

Royal College of Surgeons in Ireland

St Angela's College, Lough Gill, Sligo

St Catherine's College, Sion Hill, Co Dublin

St Nicholas Montessori College, Dun Laoghaire, Co Dublin

St Patrick's College, Thurles

St Patrick's College of Education, Drumcondra, Dublin

Shannon College of Hotel Management

Tipperary Rural and Business Development Institute

Trinity College Dublin

University of Limerick

Waterford Institute of Technology

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 2008.

These Regulations are based on the Education (Student Support) Regulations 2007 (as amended) (the "2007 Regulations") to which they make a number of changes. Changes of substance other than increases in rates of grants and loans are described below.

These Regulations revoke the 2007 Regulations. Regulation 4 sets out the extent of the revocation.

Part 4 of these Regulations provides for fee support, in the form of grants for fees (for old system students) and fee loans (for current system students). Changes have been made to allow students on flexible post-graduate courses for the initial training of teachers starting on or after 1 September 2008 to qualify for fee support where that the course is at least six weeks in length. This means that for the first time a designated course (one which meets the criteria in Regulation 5) may be of less than one academic year's duration, providing that it is a flexible post-graduate course for the initial training of teachers.

Chapter 5 of Part 5 of these Regulations provides for grants for travel for certain categories of eligible students. Regulations 53 to 57 have been amended to clarify the types of expenses in respect of which the travel grant for students studying overseas is payable, and the way in which the amount of that grant is calculated.

In Part 6, a new separate loan, the long courses loan, has been introduced for these students in relation to additional weeks of attendance beyond the normal academic year. This loan replaces the previous arrangement whereby an additional amount of loan calculated in relation to those additional weeks would increase the maximum amount of the loan for living costs itself.

An impact assessment has not been produced for this rule as it has no impact on the costs of business, charities or voluntary bodies. The impact on the public sector is minimal.

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Published and printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N3668. C2. 6/08. Gp. 130. 14567