STATUTORY INSTRUMENTS

2000 No. 2146

EDUCATION, ENGLAND

The Individual Learning Accounts (England) Regulations 2000

Made - - - - -	*4th August 2000*
Laid before Parliament	*8th August 2000*
Coming into force - -	*1st September 2000*

In exercise of the powers conferred on the Secretary of State by sections 105, 108 and 152 of the Learning and Skills Act 2000(**a**) the Secretary of State for Education and Employment hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Individual Learning Accounts (England) Regulations 2000 and shall come into force on 1st September 2000.

(2) In these Regulations—

"the Act" means the Learning and Skills Act 2000;

"eligible person" has the meaning given in regulation 3;

"learning account administrator" means a body which has the benefit of an approval given by the Secretary of State under section 105(5) of the Act for the purposes of these Regulations and not withdrawn; and

"individual learning account holder" means a person who is a party to qualifying arrangements (as specified in regulation 2).

Qualifying arrangements

2.—(1) For the purposes of section 105 of the Act arrangements qualify under that section in relation to England if—

(a) they take the form of registration by an eligible person with a learning account administrator; and

(b) the registration has not been cancelled or withdrawn in accordance with regulation 4.

(2) For the purposes of section 105 of the Act arrangements also qualify under that section in relation to England if they are—

(a) arrangements which qualify under section 105 of the Act by virtue of regulations made by the National Assembly for Wales;

(b) arrangements which qualify under section 106 of the Act; or

(c) arrangements which qualify under any provision of an Act of the Scottish Parliament which corresponds to section 105 of the Act,

and if the person who is a party to them is resident in England and satisfies the condition in paragraph (3)(a) or that in paragraph (3)(b).

(**a**) 2000 c. 21; by virtue of section 150 the functions of the Secretary of State under sections 105 and 108 are not exercisable by the Secretary of State in relation to Wales.

(3) The condition is—

(a) that the person has attained the age of 19 and satisfies the condition set out in regulation 3(3); or

(b) that a grant has been paid in respect of the person's education and training pursuant to—

(i) regulations under section 108 of the Act made by National Assembly for Wales;

(ii) regulations under section 109 of the Act, or

(iii) regulations under any Act of the Scottish Parliament which corresponds to section 108 of the Act.

(4) For the purposes of paragraph (2) a person is resident in England if he is temporarily or permanently resident there (unless regulation 9 applies).

Meaning of Eligibile Person

3.—(1) For the purposes of these Regulations a person is an eligible person if he satisfies the conditions contained in paragraphs (2) to (4) below at the date of registration.

(2) The first condition is that the person has attained the age of 19 at the date of registration.

(3) The second condition is that the person—

(a) is settled in the United Kingdom within the meaning of the Immigration Act 1971(**a**);

(b) is a refugee, ordinarily resident in the United Kingdom who has not ceased to be so resident since he was recognised as a refugee, or who is the spouse, child, or stepchild of such a refugee;

(c) is a person who—

(i) 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 a recognition as a refugee, it is thought right to allow him to remain in the United Kingdom,

(ii) has been granted leave to enter or remain accordingly, and

(iii) has been ordinarily resident in the United Kingdom throughout the period since he was granted leave to enter or remain,

or who is the spouse, child, or stepchild of such a person; or

(d) is a person not falling within paragraphs (a) to (c) but is a national of a member state of the European Economic Area who is working in the United Kingdom, or the spouse, child or stepchild of such a person.

(4) The third condition is that at the time of registration the person was either—

(a) resident in England; or

(b) resident outside the United Kingdom but ordinarily resident in England.

(5) For the purposes of paragraph (4) a person is resident in England or outside the United Kingdom (as the case may be) if he is temporarily or permanently resident there (unless regulation 9 applies).

Registration—General

4.—(1) A learning account administrator may require an applicant for registration to provide such information or documents as the learning account administrator may determine in order for the learning account administrator to determine whether the person is an eligible person and may decline to accept an application for registration unless such information or documents are provided.

(2) A learning account administrator may at any time cancel a registration if—

(a) the person ceases to be an eligible person; or

(**a**) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4; by the Immigration Act 1998 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, and by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12.

(b) it appears to the learning account administrator that any information provided under paragraph (1) was false in a material particular.

(3) A person who has registered with a learning account administrator may at any time withdraw his registration.

(4) Where a person is a party to qualifying arrangements any subsequent registration with a learning account administrator shall be of no effect.

Grants to or in respect of individual learning account holders

5. Grants may be paid in accordance with regulations 6 to 8 below in respect of individual learning account holders in connection with any education or training proposed to be undertaken by them where—

(a) the individual learning account holder at the time of payment of the grant is not in receipt of any scholarship, grant or other allowance paid out of public funds in respect of the whole cost of education or training in question; and

(b) the education or training falls within regulation 6.

Education and training for which grant can be paid

6.—(1) The education or training referred to in regulation 5 is any education or training other than excepted education which is—

(a) of a kind specified by the Secretary of State in any way he thinks fit; and

(b) provided by a person who has registered with a learning account administrator and whose registration has not been withdrawn.

(2) In this regulation excepted education is—

(a) secondary education (within the meaning of section 2 of the Education Act 1996(**a**)); or

(b) higher education (that is to say education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988(**b**)).

Amount of grant

7. The amount of grant which may be paid to or in respect of an individual learning account holder shall be decided by the Secretary of State.

Grant: supplementary provision

8.—(1) Grants shall be paid at such times and in such instalments as the Secretary of State may decide (and in particular the Secretary of State may decide that a grant shall not be paid until the person has himself made or secured the making of any payment towards the costs of the education or training as is necessary).

(2) Grants shall be paid to the person providing the education or training.

(3) Grants may be paid on such terms as the Secretary of State decides and those terms may include terms requiring repayment of the whole or part of the grant if—

(a) the education or training in question is not provided,

(b) the individual learning account holder does not undertake the education or training; or

(c) any other terms on which the grant was paid are not complied with.

(4) Grants may be paid by the Secretary of State or by a learning account administrator under arrangements made with him and if such arrangements are made the Secretary of State may pay the learning account administrator remuneration or amounts to meet its expenses.

(**a**) 1996 c. 56.
(**b**) 1988 c. 40.

Residence of members of the armed forces

9.—(1) For the purposes of these regulations the residence of a member of the naval, military or air force of the Crown ("a member of the armed forces") shall be determined in accordance with paragraphs (2) and (3).

(2) Unless paragraph (3) applies a member of the armed forces shall be treated as resident at the esablishment where he is for the time being serving.

(3) Where the member of the armed forces is serving at an establishment outside the United Kingdom he shall be treated as resident at the establishment in the United Kingdom where he most recently served, disregarding any establishment at which he served for a period of less than a month.

Transitional Provisions

10. Any eligible person who, before the coming into force of these Regulations, was a party to an arrangement known as a Individual Learning Account made by—

(a) a Training and Enterprise Council;

(b) a Chamber of Commerce Training and Enterprise, or

(c) the Individual Learning Account Company

shall, if Capita Business Services Ltd is a learning account administrator, be treated (subject to regulation 4(4)) as registered with that body under regulation 2 on the date on which that body becomes a learning account administrator.

Tessa Blackstone
Minister of State,
Department for Education and Employment

4th August 2000

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations define "qualifying arrangements", referred to in section 105 of the Learning and Skills Act 2000 and provide for a payment of grant to persons who are parties to qualifying arrangements (such persons being defined in the regulations as "individual learning account holders").

Regulations 2 to 4 deal with qualifying arrangements. They must take the form of registration by an eligible person with a body approved by the Secretary of State and regulation 3 sets out conditions of eligibility which include residence in England (or residence outside the United Kingdom but ordinary residence in England). However in certain circumstances qualifying arrangements under corresponding provisions applying in Wales, Scotland or Northern Ireland will be qualifying arrangements under these Regulations.

Regulations 5 to 8 provide for the payment of grants in respect of individual learning account holders. Regulation 5 provides for the power to pay grant. Regulation 6 provides that grant may be paid in respect of any education or training specified by the Secretary of State other than secondary or higher education. Regulation 7 provides for the amount of grant to be decided by the Secretary of State and regulation 8 contains various supplementary provisions including provision for the payment of grant to the person providing the education or training.

Regulations 9 and 10 contains respectively provisions for determining the residence of members of the armed forces and supplementary provisions.

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The Individual Learning Accounts (England) Regulations 2000

ISBN 0-11-099886-3

£2.00

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under the authority and superintendence of Carol Tullo, Controller of
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E1765 9/2000 540845

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