

## **Education and Lifelong Learning Committee - 9 November 2005**

### **Assembly Grants and Loans (Higher Education) (Wales) Regulations 2006.**

#### **Purpose:**

To note and respond to the draft Assembly Grants and Loans (Higher Education) (Wales) Regulations 2006.

#### **Summary:**

This paper sets out, for the Education and Lifelong Learning Committee, the main provisions of the Regulations, and gives Members an opportunity to comment.

#### **Background:**

The Higher Education Act 2004 transfers certain functions over student support to the National Assembly for Wales. Section 44 of that Act transfers to the Assembly the Secretary of State's power to make regulations setting out the arrangements for giving financial support to students. This function was commenced by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005, approved in plenary on 6 July.

The Regulations have been subject to public consultation over the summer (a summary of responses is provided), and will be considered by Business Committee on 29 November, and Legislation Committee on 6 December.

#### **Provisions of the Regulations**

The draft Assembly Learning Grants and Loans (Wales) Regulations 2006 provide support for students ordinarily resident in Wales taking designated higher education courses in academic year 2006/07.

The draft Regulations cover eligibility for support (Part 2 and Schedule 2), how and when to apply for support (Part 3), types of support available for full-time students (Parts 4 to 6), the financial assessment of support (Part 7 and Schedule 4), payments of grants and loans (Part 8), support available for part time students (Part 9), and support available for postgraduate students with disabilities (Part 10). The Regulations also include provisions covering revocations (Part 1 and Schedule 1), the designation of courses (Schedule 3) and the provision of information (Part 3 and Schedule 4).

The student support package for academic year 2006/07: main elements

All new students ordinarily resident in Wales, irrespective of where they study in the UK, will be eligible to receive, from academic year 2006/07, a new **means tested maintenance grant** of up to £2700, to help with living expenses. Up to £1, 200 of the new grant will be paid in substitution for part of the student loan for maintenance. The means-test thresholds are given in the Regulations - a full grant will be available where the household income is £15, 580 or less, with tapers operating up to a cut off of £32, 74.

Continuing students will be eligible to receive the Higher Education Grant (of up to £1000), and up to an additional £500 Assembly Learning Grant.

A **loan for living costs**, to help students with their living expenses, will be available. This will be partly means-tested - all eligible students will be entitled to 75% of the maximum figure, with the remainder dependent on household income and the amount of maintenance grant received. The maximum amount available for students living away from parents and studying in London will be £6, 170. The maximum amount available for students living away from parents and studying elsewhere will be £4,405. The maximum amount available for students under 25 living with their parents will be £3, 415.

The Regulations also give details for grants available for disabled students' living costs, grants for students who have left care, grants for dependants and grants for travel.

The Regulations prescribe the amount of **grants for fees**, which will be available for continuing students only from academic year 2006/07.

New students in academic year 2006/07 will not be eligible for a grant for fees. Fees will be deferred and a **fee loan** will be available up to £1200 for those studying in Wales, and up to £3000 for those studying in England. There will be no age limit on fee loans or loan repayments. The Assembly government is also committed that students will not have to pay back their loans until after graduation and after they start earning above the repayment threshold of £15,000.

A combination of grants providing assistance towards fee costs and study related costs will be available for students in **part-time** education. This will consist of a grant for fees for continuing students (up to £885), and a study related costs grant (not exceeding £750).

#### **Actions for the Committee:**

To note and respond to the Regulations.

#### **Contact points:**

Vaughan Johnson (Policy) and Huw Davies (Legal)

## EXPLANATORY MEMORANDUM

### HIGHER EDUCATION, WALES

#### THE ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES) REGULATIONS 2006

##### Summary

**These Regulations set the student support arrangements for students ordinarily resident in Wales for academic year 2006/07.**

1. This Memorandum is submitted to the Assembly's Education and Lifelong Learning Committee in relation to The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006, in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with this Memorandum.

##### Enabling Power

3. The powers enabling this Instrument to be made are contained in sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998. The powers have been transferred to the National Assembly for Wales and in turn, have been delegated to my portfolio as Minister for Education and Lifelong Learning..

##### Effect

4. These Regulations set out the student support arrangements for students ordinarily resident in Wales in academic year 2006/07, and will enable the National Assembly to make awards of grants and loans to eligible students. **The Regulations set out the eligibility criteria for applying for and receiving student support, the loans and grants available (including both full and part-time provision, and special additional support), financial assessment and payment methods and related schedules.**

##### Target Implementation

5. It is intended that this Instrument be made on 31 January 2006 and come into force on 1 March 2006.
6. The 31 January 2006 making date will enable the Assembly to provide the approved regulatory framework for the provision of student support for students ordinarily resident in Wales for academic year 2006/07, in advance of the student finance applications round which need to start in February 2006. Failure to make these Regulations by the date given would have serious implications for the delivery of student support for students ordinarily resident in Wales in academic year 2006. There would be uncertainty for students during the crucial university application process in February 2006 and Assembly arrangements and contracts with key stakeholders (including the Student Loans Company) could not be

completed in time to deliver Student Finance Wales services to students in time for the start of the academic year.

### **Financial Implications**

7.

8. I have agreed with the Secretary of State for Education and Skills the financial package which will underpin the transfer of student finance functions. Details of this transfer can be found in my answer to WAQ 43491 (23 June 2005). The agreed transfer for 2006/07 is £76.7 millions, with £124.8 millions agreed for 2007/08.

8. The implementation of these Regulations does not impact upon Business or the Voluntary Sector. There are anticipated administration savings for Local Education Authorities.

### **Regulatory Appraisal**

9. A Regulatory Appraisal has been carried out in relation to this Instrument .

### **Consultation**

#### With Stakeholders

10. Formal consultation on the draft Regulations commenced on 29 July and concluded on 23 September 2005. 236 stakeholders were sent the consultation pack and the draft Regulations and accompanying documents were posted on both the National Assembly for Wales and the Learning Wales websites. Five responses were received, a summary of consultation responses has been prepared and is attached at Annex A to the Regulatory Appraisal.

11. The functions transferred to the National Assembly by the Higher Education Act 2004 have been subject to extensive consultation with stakeholders, as part of the evidence gathering work of the Independent Study into the Devolution of the Student Support System and Tuition Fee Regime in Wales, chaired by Professor Teresa Rees. Further, the Project to manage the devolution of student support includes stakeholder representatives.

#### With Subject Committee

12. These Regulations were notified to the Education and Lifelong Learning Committee, via the list of forthcoming legislation on 2005: Paper ELL2 12-05p.5. They were identified for detailed scrutiny.

### **Recommended Procedure**

Subject to the views of the Business Committee I recommend that these Regulations proceed to plenary under the Standard procedure

### **Compliance**

13. I confirm that this proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 Section 120);
- be compatible with the Assembly's scheme for sustainable development (Section 121);
- be compatible with Community law (Section 106);
  
- be compatible with the Assembly's human rights obligations (Section 107);  
and
- be compatible with any international obligations binding the UK Government and the Assembly (Section 108).

14. The information in this Memorandum has been cleared with the Directorate of Legal Services (DLS) and the Assembly Compliance Officer (ACO).

15. Drafting lawyer (Huw G Davies, Ext 3930).

16. Head of Division (Lynne Hamilton, Ext 6092).

17. Drafting policy official (Gareth Owen, Ext 1134).

**JANE DAVIDSON AM  
MINISTER FOR EDUCATION AND LIFELONG LEARNING**

**OCTOBER 2005**

## Annex A

### Consultation exercise

The draft Regulations were issued for public consultation from 29 July to 23 September. The Regulations were issued together with an explanatory note and a covering letter from the Education and Lifelong Learning Minister.

The consultation pack was sent electronically to 236 consultees. In addition, the pack was posted on both the Assembly and the Learning Wales websites.

### Responses

Five responses to the consultation were received. One concerned fee and student support arrangements for academic year 2007/08 onwards. The remaining four responses concerned the student support arrangements for academic year 2006/07, as set out in the Regulations.

### General comments and actions

The draft Regulations were given a warm welcome (Higher Education Wales) and also commended for providing a 'seamless and transparent' transition from delivery by the Department for Education and Skills to that by the National Assembly for Wales (UWIC). The re-introduction of a maintenance grant, abolition of up-front fees, additional support arrangements for certain student groups (e.g. those with disabilities, those who have left care) and the provision of support for part-time students was also welcomed (NUS Wales). Concerns were raised over the potential for indebtedness, the level at which thresholds had been set and the level of loan available (NUS Wales).

The devolution of student support to the National Assembly for Wales has been achieved in accordance with the Cabinet's commitment that there should be a period of transition which caused minimal disruption and confusion. In addition, that no Welsh student would be disadvantaged in comparison to their English counterpart by the package of support available for academic year 2006/07. These commitments have guided the drafting of the Regulations, which require no substantive policy amendments as a result of the responses received.

### Technical comments and actions

The reference to higher education institutions in regulation 5 was considered restrictive in the categorisation of institutions given (Coleg Gwent). However, this Clause only outlines the relationship between colleges and does not prescribe categories of education institutions for the purposes of the Regulations. There is no need to amend the Regulations.

It was suggested that regulation 2 (8) of the Regulations could make reference to the Secretary of State as well as the National Assembly for Wales (UWIC). The current drafting correctly reflects the legal position, since the provisions in this Section relate to those students who are residing in Wales or Welsh students studying outside

Wales, and such functions can be taken to have been transferred. There is no need to amend the Regulations.

The consultation package refers to 'students ordinarily resident in Wales', and there was concern that the courts have already defined the expression in terms of residence in the UK and islands. This could have implications, it is argued, for the fee grant to be introduced for Welsh and EU students from academic year 2007/08 (Higher Education Wales). The expression 'ordinary residence' has been used in previous and current student support regulations in respect of England and Wales (as opposed to the UK and islands) and the adoption of this approach in relation to Wales presents no new difficulties. As there is already a definition in case law of the meaning of 'ordinary residence' there is no need to amend the Regulations.

A concern was raised about the use of the term 'unfitted' in Section 4 (3) (f) and other sections of the Regulations, in reference to the withdrawal of support from a student (NUS Wales). The term is considered too broad and ill-defined, and the possibility of appeal is requested.

The term "unfitted" is well established and has been used in regulations ever since the first set of regulations was drawn up in 1962 under the Education Act 1962.

There is guidance on assessing eligibility with regard to higher education student support in England and Wales from the Student Loans Company to Local Education Authorities. The guidance relates to academic year 05/06 and comments as follows;

"Ineligibility on grounds of unfitness to receive support"

(i) The circumstances in which LEAs might wish to use these powers will depend on the individual case. The power may be used at any stage in the process of assessing a student's eligibility for support. Once a student has been notified that he is eligible this power may not be used, but an LEA may terminate eligibility for similar reasons under Regulation 6(6).

(ii) One example might be where it comes to light that students have committed a fraud in applying for support, for example if they are discovered to have made applications to and received support from more than one authority, or presented fraudulent information in their applications in order to receive more support than they are entitled to. In such cases an LEA might be able to exercise the power to refuse the application (or terminate eligibility, depending on when the fraud comes to light) on the grounds that the students have shown themselves unfit by their fraudulent conduct to be considered for support.

(iii) Other examples might include fraud against other government funds such as Jobseeker's Allowance, Income Support or Housing Benefit. Commission of a serious criminal offence might also be grounds for refusal in some circumstances, but LEAs will need to consider such cases carefully, especially where the applicant is pursuing higher education as a means towards his rehabilitation. A

student may argue that he has already been punished adequately by his sentence, but an LEA should consider whether it is appropriate to support a student whose conviction casts doubt on his suitability for his intended career. (An obvious example is an offence against a child by someone who is, or may be, preparing for a career working with children.) It is important to bear in mind that the decision as to whether a student is suitable for or should be allowed to take a course rests with the institution; the decision as to whether to provide funds rests with the LEA.

(iv) There might be other instances where the LEA would wish to consult the institution before exercising the power to refuse or terminate eligibility, where the institution's evidence might put the student's fitness to receive support into question. For example, the institution might provide evidence of attempted fraud against it which has not actually led to the student being expelled but which might lead the LEA to consider whether the student, though being allowed to continue with the course, should continue to receive support for it.

(v) The fact that a student is, or has in the past been, in dispute with the LEA over a student support issue should not of itself be a reason for refusing or terminating support, even if the dispute was acrimonious. It may be a different matter however if the student has behaved criminally in pursuing his grievance, though the case should be considered on its own merits.

(vi) It is important to remember that the purpose of these provisions is to safeguard public funds, and to ensure that they are spent properly. An LEA should always ensure that a decision to refuse or terminate support will stand up to examination in the event of a formal appeal or a court challenge. It may be a sensible precaution to seek advice from the authority's legal staff.

Whilst there is no statutory procedure under the draft regulations to appeal a determination that a student is unfitted, it would be open to an aggrieved person to seek judicial review of the Assembly's decision. It is not considered necessary to amend the regulations in this regard.



## **REGULATORY APPRAISAL**

### **HIGHER EDUCATION, WALES**

#### **THE ASSEMBLY LEARNING GRANT AND LOANS (HIGHER EDUCATION) (WALES) REGULATIONS 2006**

##### **Background**

1. The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006 set out the arrangements for providing student support for students ordinarily resident in Wales for academic year 2006/07. These arrangements are provided for under Section 44 of the Higher Education Act 2004, which transfers to the National Assembly for Wales certain functions relating to the provision of financial support to students by way of loans and grant, under Section 22 of the Teaching and Higher Education Act 1998 (except functions related to repayment of loans through the tax system and functions under Section 23 of that Act).
2. Section 44 of the Higher Education Act 2004 was commenced by the Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005, approved in plenary on 6 July 2005. The approval of this Order formally transferred the functions for providing student support for students ordinarily resident in Wales from academic year 2006/07 from the Secretary of State to the National Assembly for Wales. Student support is currently administered on an England and Wales basis by the Department for Education and Skills.

##### **Primary legislation**

3. The Higher Education Act 2004, which transfers certain functions over student support to the National Assembly for Wales, was introduced in Parliament in January 2004 and scrutinised in detail by both Houses and in Standing Committee. The provisions of the draft Bill were also scrutinised in the Assembly. The ELL Minister made an oral statement to plenary on 13 January 2004; there was a Liberal Democrat nominated debate on 27 January 2004; the ELL Minister and the under- Secretary of State at the Wales Office briefed ELL Committee on 28 January 2004; there was a Government debate on 11 February 2004; there was a delegations motion debate on 2 November, to delegate the functions of the Act to the First Minister and from the First Minister to the ELL Minister; there was ELL Committee consideration of the interim report from the Rees Review on 9 March 2005; there was a Conservative motion debate on 24 May 2005.

## Assembly subordinate legislation

4. The Higher Education Act 2004 (Wales) (Commencement Order No.1) was approved by the Assembly on 30 November 2004 and provides for the designation of an operator of a student complaints scheme on an England and Wales basis.
5. The Higher Education Act 2004 (Commencement No.2 and Transitional Provision) (Wales) Order 2005, which commences sections 10(2), 44, 49 and 50 (partially) together with schedules 6 and 7 (partially) of the Higher Education Act 2004, was approved in plenary on 6 July 2005. The Order provides for research into arts and humanities and transfers certain student support functions to the National Assembly for Wales.
6. The Fees in Higher Education Institutions (Wales) Regulations 2005, which prescribe the tuition fee amount that may be charged by institutions in Wales at £1200 for academic year 2006/07, were also approved in plenary on 6 July 2005.

## Purpose and Intended effect of the measure

7. These Regulations set out the student support arrangements for students ordinarily resident in Wales in academic year 2006/07, and will enable the National Assembly to make awards of grants and loans to eligible students. **The Regulations set out the eligibility criteria for applying for and receiving student support, the loans and grants available (including both full and part-time provision, and special additional support), financial assessment and payment methods and related schedules.**

## Risk Assessment

8. The 31 January 2006 making date will enable the Assembly to provide the approved regulatory framework for the provision of student support for students ordinarily resident in Wales for academic year 2006/07, in advance of the student finance applications round which need to start in February 2006. Failure to make these Regulations by the date given would have serious implications for the delivery of student support for students ordinarily resident in Wales in academic year 2006. There would be uncertainty for students during the crucial university application process in February 2006 and Assembly arrangements and contracts with key stakeholders (including the Student Loans Company) could not be completed in time to deliver Student Finance Wales services to students in time for the start of the academic year.

## Options

### Option 1 – Do Nothing

The objective of providing student support arrangements for students ordinarily resident in Wales for academic year 2006/07, to which end the National Assembly for Wales approved the Higher Education Act 2004 (Commencement No.2 and Transitional Provision) (Wales) Order 2005 would not be met.

### Option 2 – Make this Legislation

9. The National Assembly for Wales would be able fully to discharge its functions over the provision of student support arrangements for students ordinarily resident in Wales for academic year 2006/07.

## **Benefits**

### Option 2 – Make this Legislation

10. Welsh students will continue to enjoy a suitable package of financial support to meet their particular needs, and encourage participation in higher education. In addition, the Regulatory Impact Assessment, prepared for the Higher Education Bill's introduction to Parliament, identified the following potential benefits: -

- The transfer of functions will bring the devolution settlement in line with that in Scotland and Northern Ireland. The transfer would provide the Assembly with full discretion over the financial levers for higher education on a whole system basis, and deliver a student support system that works in tandem with its wider strategy for the sector in Wales. Benefits will fall to LEAs, and to the National Assembly for Wales;
- The National Assembly currently offers the discretionary Assembly Learning Grant (ALG) on a means tested basis to Welsh domiciled students. The ALG is operated outside the DfES administered student support system. LEAs in Wales administer the ALG. From an LEA perspective the burden of running two parallel student support arrangements will be reduced after the DfES administered student support system is transferred to the National Assembly. as the opportunity will arise to embed the ALG within the mainstream student support system.

## **Costs**

1. I have agreed with the Secretary of State for Education and Skills the financial package which will underpin the transfer of student finance functions. Details of this transfer can be found in my answer to WAQ 43491 (23 June 2005).

The agreed transfer for 2006/07 is £76.7 millions, with £124.8 millions agreed for 2007/08.

11. The implementation of these Regulations do not impact upon Business or the Voluntary Sector. There are anticipated administration savings for Local Education Authorities.

## **Consultation**

### With Stakeholders

12. Formal consultation on the draft Regulations commenced on 29 July and concluded on 23 September 2005. 236 stakeholders were sent the consultation pack and the draft Regulations and accompanying documents were posted on both the National Assembly for Wales and the Learning Wales websites. A list of consultees is attached at Annex A. Five responses were received, a summary of consultation responses has been prepared and is attached at Annex B.

13. The functions transferred to the National Assembly by the Higher Education Act 2004 were subject to extensive consultation with stakeholders, as part of the evidence gathering work of the Independent Study into the Devolution of the Student Support System and Tuition Fee Regime in Wales, chaired by Professor Teresa Rees. Further, the Project to manage the devolution of student support includes stakeholder representatives.

### With Subject Committee

14. These Regulations were notified to the Education and Lifelong Learning Committee, via the list of forthcoming legislation on 2005 (Paper ELL2 08-05(p.5)). They were identified for detailed scrutiny.

## **Review**

15. The arrangements for the provision of student support for academic year 2007/08 onwards will be the subject of separate Regulations.

## **Summary**

16. The making of the Regulations will be cost neutral, cost being covered by the agreed transfer of resources from the Department for Education and Skills to the National Assembly for Wales.

## **Summary of responses on the consultation on the draft Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006**

### **Consultation exercise**

The draft Regulations were issued for public consultation from 29 July to 23 September. The Regulations were issued together with an explanatory note and a covering letter from the Education and Lifelong Learning Minister.

The consultation pack was sent electronically to 236 consultees. In addition, the pack was posted on both the Assembly and the Learning Wales websites.

### **Responses**

Five responses to the consultation were received. One concerned fee and student support arrangements for academic year 2007/08 onwards. The remaining four responses concerned the student support arrangements for academic year 2006/07, as set out in the Regulations.

### **General comments and actions**

The draft Regulations were given a warm welcome (Higher Education Wales) and also commended for providing a 'seamless and transparent' transition from delivery by the Department for Education and Skills to that by the National Assembly for Wales (UWIC). The re-introduction of a maintenance grant, abolition of up-front fees, additional support arrangements for certain student groups (e.g. those with disabilities, those who have left care) and the provision of support for part-time students was also welcomed (NUS Wales). Concerns were raised over the potential for indebtedness, the level at which thresholds had been set and the level of loan available (NUS Wales).

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**NATIONAL ASSEMBLY FOR WALES**

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**S T A T U T O R Y   I N S T R U M E N T S**

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**2006 No. (W.)**

**EDUCATION, WALES**

**The Assembly Learning Grants and  
Loans (Higher Education) (Wales)  
Regulations 2006**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for support for students who are ordinarily resident in Wales taking designated higher education courses in respect of the academic year beginning on or after 1 September 2006.

These Regulations revoke the Education (Student Support) Regulations 2005 in so far as they apply in relation to Wales. Regulation 3 sets out the extent of the revocation.



**2006 No. (W. )**

**EDUCATION, WALES**

**The Assembly Learning Grants and  
Loans (Higher Education) (Wales)  
Regulations 2006**

*Made* 2006

*Coming into force* 1 March 2006

**ARRANGEMENT OF REGULATIONS**

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**GENERAL**

1. Title, commencement and application
2. Interpretation
3. Revocation, savings and transitional provisions

**PART 2**

**ELIGIBILITY**

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5. Designated courses
6. Period of eligibility
7. Qualifying conditions for support

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**APPLYING FOR SUPPORT AND PROVISION OF  
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8. Applications for support
9. Time limits
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**GRANTS FOR FEES**

11. Qualifying conditions for grants for fees
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13. General qualifying conditions for loans for fees
14. Fee contribution loans
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**PART 6**

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17. Grants for disabled students' living costs
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### SCHEDULE 1 ELIGIBLE STUDENTS

### SCHEDULE 2 DESIGNATED COURSES

### SCHEDULE 3 INFORMATION

### SCHEDULE 4 FINANCIAL ASSESSMENT

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998<sup>(1)</sup>, makes the following Regulations:

## PART 1

### GENERAL

#### **Title, commencement and application**

**1.**—(1) The title of these Regulations is the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006.

(2) These Regulations come into force on 1 March 2006 and apply in relation to Wales.

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(1) 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), section 42. Section 42 and section 43 were amended by the Education Act 2002 (c. 32), Schedule 12. The functions of the Secretary of State were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004. Commencement Order...

## **Interpretation**

2.—(1) In these Regulations —

“the 1962 Act” means the Education Act 1962**(1)**;

“the 1998 Regulations” means the Education (Student Support) Regulations 1998**(2)**;

“the 1999 Regulations” means the Education (Student Support) Regulations 1999**(3)**;

“the 2000 Regulations” means the Education (Student Support) Regulations 2000**(4)**;

“the 2001 Regulations” means the Education (Student Support) Regulations 2001**(5)**;

“the 2002 Regulations” means the Education (Student Support) Regulations 2002**(6)**;

“the 2003 Regulations” means the Education (Student Support) (No. 2) Regulations 2002**(7)** as amended only by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003**(8)** and the Education (Student Fees and Support) (Switzerland) Regulations 2003**(9)**;

“the 2004 Regulations” means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004**(10)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004**(11)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004**(12)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004**(13)** and the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005**(14)**;

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- (1) 1962 c. 12; sections 1 to 4 and Schedule 1 were substituted by the provisions set out in Schedule 5 to the Education Act 1980 (c. 20). Section 1(3)(d) was amended by the Education (Grants and Awards) Act 1984 (c. 11), section 4. Section 4 was amended by the Education Act 1994 (c. 30), Schedule 2, paragraph 2. The entire Act was repealed by the Teaching and Higher Education Act 1998 (c. 30), section 44(2) and Schedule 4, subject to the transitional provisions and savings set out in the Teaching and Higher Education Act 1998 (Commencement No. 4 and Transitional Provisions) Order 1998 (S.I. 1998/3237), article 3.
- (2) S.I. 1998/2003.
- (3) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.
- (4) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.
- (5) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.
- (6) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.
- (7) S.I. 2002/3200.
- (8) S.I. 2003/1065.
- (9) S.I. 2003/3280.
- (10) S.I. 2004/161.
- (11) S.I. 2004/1602.
- (12) S.I. 2004/2041.
- (13) S.I. 2004/2598.
- (14) S.I. 2005/5.

“the 2005 Regulations” means the Education (Student Support) Regulations 2005(1) as amended by the Education (Student Support) (Amendment) Regulations 2005 and the Education (Student Support) (Amendment) (No. 2) Regulations 2005.

“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 1 January, 1 April, 1 July or 1 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 1 January and before 1 April, on or after 1 April and before 1 July, on or after 1 July and before 1 August or on or after 1 August and on or before 31 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;

“the Act” means the Teaching and Higher Education Act 1998;

“borrower” means a person to whom a loan has been made;

“contribution” means an eligible student’s contribution calculated pursuant to regulation 33 and Schedule 4;

“course for the initial training of teachers” includes such a course leading to a first degree unless otherwise specified and excludes an employment-based teacher training scheme;

“designated course” means a course designated by regulation 5 or by the National Assembly under regulation 5;

“designated part-time course” means a course designated by regulation 39 or by the National Assembly under regulation 39;

“designated postgraduate course” means a course designated by regulation 51 or by the National Assembly under regulation 51;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992(2) as adjusted by the Protocol signed at Brussels on 17 March 1993(3);

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(1) S.I. 2005/52 as amended by S.I. 2005/1341.

(2) Cm 2073.

(3) Cm 2183.

“EEA migrant worker” has the meaning given in paragraph (5);

“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 part-time student” has the meaning given in regulation 38;

“eligible postgraduate student” has the meaning given in regulation 50;

“eligible student” has the meaning given in regulation 4;

“employment-based teacher training scheme” means a scheme established by the National Assembly for the purpose of regulation 8 of the Education (School Teachers’ Qualifications) (Wales) Regulations 2004 (1) whereby a person may undertake initial teacher training in order to obtain qualified teacher status while being employed to teach at a maintained school, an independent school or other institution except a pupil referral unit;

“end-on course” means -

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

(b) a full-time honours degree course beginning on or after 1 September 2006 which, disregarding any intervening vacation, a student starts to attend immediately after ceasing to attend a full-time foundation 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;

(c) a course for the initial training of teachers beginning before 1 September 2006 the duration of which does not exceed two years (the duration of a part-time course being expressed as its full-time

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(1) S.I. 2004/1729 (W.173).

equivalent) which, disregarding any intervening vacation, a student begins to attend 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;

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

“European Economic Area” means the European Community and the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

“flexible postgraduate ITT course” means a postgraduate course of initial teacher training, 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 (1);

“former Metropolitan Police District” means —

- (a) Greater London, excluding the city of London, the Inner Temple and the Middle Temple;
- (b) in the county of Essex, in the district of Epping Forest —
  - the area of the former urban district of Chigwell,
  - the parish of Waltham Abbey;
- (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;

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(1) 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 to be known instead as the Training and Development Agency for Schools.



“healthcare bursary” means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968<sup>(1)</sup> or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(2)</sup>;

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

“household income” has the meaning given in Schedule 4;

“Islands” means the Channel Islands and the Isle of Man;

“loan”, except where otherwise indicated, means a loan towards a student’s maintenance or course fees pursuant to any regulations made under section 22 of the Act, including the interest accrued on the loan and any penalties or charges incurred in connection with it;

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

“National Assembly” means the National Assembly for Wales;

“new system eligible student” means an eligible student who starts the current course on or after 1 September 2006 and who is not an old system eligible student;

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- (1) 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, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (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 Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.
- (2) S.I. 1972/1265 (N.I. 14).

“old award” is an award within the meaning of the Education (Mandatory Awards) Regulations 2003(1);

“old system eligible student” means an eligible student who –

(a) started the current course before 1 September 2006,

(b) is a gap-year student,

(c) starts the current course on or after 1 September 2006 where that course is an end-on course in relation to a course that he or she started before 1 September 2006 or, in the case of a gap-year student, before 1 September 2007, or

(d) starts the current course on or after 1 September 2006 having had his or her status as an eligible student transferred to that course as a result of one or more transfers of that status by the National Assembly pursuant to regulations made under section 22 of the Act from a designated course which he or she began before 1 September 2006 or, in the case of a gap-year student, before 1 September 2007 and in connection with which the National Assembly determined him or her to be an eligible 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 or she is studying for his or her course (provided that the period of residence in that country is a requirement of his or her 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);

“present course” means the designated course in respect of which a person is applying for support;

“private institution” means an institution which is not publicly funded;

“public funds” means moneys provided by Parliament including funds provided by the National Assembly for Wales;

“publicly-funded” means maintained or assisted by recurrent grants out of public funds and related expressions are to be interpreted accordingly;

“qualified teacher” has the meaning given in section 132(1) of the Education Act 2002(2);

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(1) S.I. 2003/1994, amended by S.I. 2004/1038 and S.I. 2004/1792.  
(2) 2002 c. 32.

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

- (a) beginning on 1 January and ending on 31 March;
- (b) beginning on 1 April and ending on 30 June;
- (c) beginning on 1 July and ending on 31 August;  
or
- (d) beginning on 1 September and ending on 31 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 28 July 1951(1) as extended by the Protocol thereto which entered into force on 4 October 1967(2) and any reference to the child of a refugee includes a reference to a step-child;

“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;

“sandwich course” has the meaning given in paragraph (6);

“Scottish healthcare allowance” means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(3) granted in respect of a person attending a course leading to a qualification in a healthcare profession other than as a medical doctor or dentist;

“statutory award” means any award bestowed, grant paid or other support provided by virtue of the Act or the 1962 Act, or any comparable award, grant or

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(1) Cmnd. 9171.  
(2) Cmnd. 3906 (out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Skills, Mowden Hall, Staindrop Road, Darlington DL3 9BG).  
(3) 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 (asp6), section 3(2) and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the National Assembly were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

other support in respect of undertaking a course which is paid out of public funds;

“student loan account number” means the account number assigned by the lender to a loan made under the student loans legislation;

“student loans legislation” means the Education (Student Loans) Act 1990(1), the Education (Student Loans) (Northern Ireland) Order 1990(2), the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support) (Northern Ireland) Order 1998(3) and regulations made thereunder or the Act and regulations made thereunder;

“support” means financial support by way of grant or loan made by the National Assembly pursuant to regulations made under section 22 of the Act;

“Switzerland 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(4) and which came into force on 1st June 2002;

“transitional award” means an award made under the Education (Mandatory Awards) Regulations 1998(5) other than an old award;

“type 1 teacher training student” means a new 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 or she is applying for support are in aggregate at least 6 weeks but less than 10 weeks; and

“type 2 teacher training student” means a new 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 or she is applying for support are in aggregate 10 weeks or more.

(2) For the purposes of these Regulations, a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland or the Islands as a result of having moved from another of those areas for the purpose of undertaking —

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(1) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.  
(2) S.I. 1990/1506 (N.I. 11), amended by S.I. 1996/1274 (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.  
(3) S.I. 1998/1760 (N.I. 14).  
(4) Cm. 4904.  
(5) S.I. 1998/1166, amended by S.I. 1998/1972.

- (a) his or her present course; or
- (b) a previous designated course which, disregarding any intervening vacation, the student was undertaking immediately before undertaking his or her present course,

is considered to be ordinarily resident in the place from which that person moved.

(3) For the purposes of these Regulations, including for the purpose of determining whether a person is settled in the United Kingdom within the meaning of the Immigration Act 1971<sup>(1)</sup>, a person is treated as ordinarily resident in Wales, the United Kingdom and Islands or in the European Economic Area or Switzerland if he or she would have been so resident but for the fact that the person, the person's spouse or civil partner or the person's parent, guardian or any other person having parental responsibility for him or her or any person having care of him or her when the person is a child is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the European Economic Area or Switzerland and paragraph 8(c) of Schedule 1 does not apply in the case of such person. Without prejudice to the foregoing, members of the regular naval, military or air forces of the Crown shall be treated as being temporarily employed within the meaning of this paragraph for any period during which they serve outside the United Kingdom as members of such forces.

(4) For the purposes of these Regulations, 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 considered to have always been part of the European Economic Area.

(5) In these Regulations, a reference to an EEA migrant worker is a reference to a person who is a national of a Member State of the European Economic Area or Switzerland who has taken up an activity as an employed person in the United Kingdom —

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community<sup>(2)</sup>, as extended by the EEA Agreement or the Switzerland Agreement; or
- (b) in circumstances where as a national of the United Kingdom the person has an enforceable

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(1) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.  
(2) OJ No L257, 19.10. 1968, p 2 (OJ/SE 1968 (II) p 475).

Community right to be treated no less favourably than a national of another Member State in relation to matters which are the subject of the above-mentioned Council Regulation.

(6) In these Regulations —

(a) a course is a “sandwich course” if —

(i) it is not a course referred to in paragraph 4 of Schedule 2;

(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) for the purposes of calculating the student’s attendance, the course is treated as beginning with the first period of full-time study and ending with the last such period; and

(c) 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.

(7) Except in the case of regulation 25 (grant for travel), a reference in these Regulations to the “attendance” of an eligible student on a designated course includes the undertaking of a course by distance learning if the eligible student is unable to physically attend by reason of his or her disability.

(8) In these Regulations a “gap-year student” means an eligible student to whom paragraphs (11) or (12) apply and who starts a designated course (“the present course”) on or after 1 September 2006.

(9) This paragraph applies to an eligible student who

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

(b) starts the first academic year of the present course before 1 September 2007.

(10) This paragraph applies to an eligible student -

(a) who had received an offer of a place on a designated course (whether or not at the same institution as the present course) the first academic year of which begins before 1 September 2006,

- (b) who was unable to take up the offer because a specified qualification or grade was not awarded to him or her,
- (c) who appealed against the decision not to award him or her the qualification or grade,
- (d) where the appeal was allowed after the last date on which he or she could have taken up the offer,
- (e) where as a result he or she was offered a place on the present course, and
- (f) where the first academic year of the relevant course begins after 31 August 2006 but before 1 September 2007.

(11) For the purpose of paragraph (2)(a) a course (“the original course”) is similar to the present course if

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- (a) it appears to the governing body of the institution providing the present 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 present course is provided by the institution which was to have provided the original course.

(12) In these Regulations, the “specified designated course” means the present course subject to paragraphs (13) and (14).

(13) Where the student’s status as an eligible student has been transferred to the present course as a result of one or more transfers of that status by the National Assembly from a course (the “initial course”) in connection with which the National Assembly determined the student to be an eligible student pursuant to regulations made under section 22 of the Act, the specified designated course is the initial course.

(14) Where the present 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.

### **Revocation, savings and transitional provisions**

**3.—**(1) Subject to paragraphs (2) to (4), the 2005 Regulations are revoked on 1 September 2006.

(2) The 2003 Regulations continue to apply to the provision of support to students in relation to an

academic year which begins on or after 1 September 2003 but before 1 September 2004.

(3) The 2004 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2004 but before 1 September 2005.

(4) The 2005 Regulations continue to apply to the provision of support to students in relation to an academic year which begins on or after 1 September 2005 but before 1 September 2006.

(5) These Regulations apply in relation to the provision of support to students in relation to an academic year which begins on or after 1 September 2006 whether anything done under these Regulations is done before, on or after 1 September 2006.

(6) Notwithstanding any other provision in these Regulations where—

- (a) a person attends a course in respect of which a transitional award was bestowed on him or her; or
- (b) no award under the 1962 Act was bestowed in respect of the course but a transitional award would have been bestowed on him or her if the person had applied for an award under the 1962 Act and his or her resources had not exceeded his or her requirements,

he or she is an eligible student for the purposes of Parts 4 and 6 in connection with the course, or in connection with any subsequent course to which the award (either bestowed or which would have been bestowed under the 1962 Act) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (7) applies he or she qualifies for support by way of loan under Part 7 only if he or she is an eligible student under these regulations and if he or she satisfies the qualifying conditions in Part 7.

(7) Notwithstanding 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 or she is an eligible student for the purposes of Part 7 in connection with the course, or any subsequent designated course which (disregarding any intervening vacation) he or she starts immediately after ceasing that course, but unless paragraph (6) applies he or she qualifies for support by way of grant under Parts 4 and 6 only if he or she is an eligible student under these Regulations and if he or she satisfies the relevant qualifying conditions in Parts 4 and 6.



## PART 2 ELIGIBILITY

### **Eligible students**

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

(2) A person is an eligible student in connection with a designated course if —

- (a) the National Assembly has determined in connection with that course that the person is mentioned in Schedule 1; and
- (b) the person is not excluded by paragraph (3).

(3) A person shall not be an eligible student if —

- (a) an award has been bestowed on that person in respect of the person's attendance on the course;
- (b) the person is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;
- (c) there has been bestowed on, or paid to, the person in relation to the person's attendance on the course —
  - (i) a healthcare bursary the amount of which is not calculated by reference to the person's income; or
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(1);
- (d) the person is in breach of any obligation to repay any loan;
- (e) the person has reached the age of 18 and has not ratified any agreement for a loan made with them when they were under the age of 18; or
- (f) the person has, in the opinion of the National Assembly, shown themselves by their conduct to be unfitted to receive support.

(4) For the purposes of paragraphs (3)(d) and (3)(e), "loan" means a loan made under 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

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(1) S.I. 1992/580, amended by S.S.I. 2002/423 and S.S.I. 2003/401.

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

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

- (a) more than one designated course;
- (b) a designated course and a designated part-time course;
- (c) a designated course and a designated postgraduate course.

(7) Notwithstanding paragraph (2), a person is an eligible student for the purposes of these Regulations if —

- (a) the person qualified as an eligible student in connection with an earlier academic year of the present designated course pursuant to regulations made under section 22 of the Act and that status has not expired or been terminated; or
- (b) the National Assembly 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 present course,

and the student's status as an eligible part-time student or as an eligible student in connection with that course has been converted or transferred from that course to the present course as a result of one or more conversions or transfers in accordance with regulations made under section 22 of the Act.

### **Designated courses**

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

- (a) mentioned in Schedule 2;
- (b) one of the following —
  - (i) a full-time course;
  - (ii) a sandwich course; or
  - (iii) a part-time course for the initial training of teachers;
- (c) of at least one academic year's duration; and
- (d) wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) A course falling within paragraph 6 or 7 of Schedule 2 is not a designated 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) 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 regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
- (c) an institution is not 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(1).

(4) A course to which this paragraph applies is considered to be a single course for a first degree or for an equivalent qualification notwithstanding that —

- (a) the course may lead to another degree or qualification being conferred before the degree or equivalent qualification; and
- (b) part of the course may be optional.

(5) Paragraph (4) 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 doctor, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner.

(6) For the purposes of section 22 of the Act and regulation 4(1) the National Assembly may designate courses of higher education which are not designated under paragraph (1).

### **Period of eligibility**

**6.—(1)** An eligible student retains his or her status as an eligible student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” is equal to the period ordinarily required for the completion of the designated course.

(3) In relation to grants and loans for fees and grants for living costs, the period of eligibility is —

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(1) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(a) extended for up to one academic year where the student repeats part of his or her course, and

(b) reduced by the number of years of attendance by the eligible student on a previous course.

(4) In relation to loans for living costs, the period of eligibility is extended to the end of the academic year in which the eligible student completes his or her course where the student repeats part of his or her course.

(5) Paragraph (3)(b) does not apply to -

(a) a student who starts the first year of his or her course before 1 September 2006; or

(b) a student attending a course referred to in paragraph (4) of Schedule 2 where the duration of the course does not exceed 2 years (the duration of a part-time course being expressed in its full-time equivalent) and the student is not a qualified teacher.

(6) In the case of an eligible student to whom paragraph (3)(b) applies, the academic years comprising the period of eligibility are the latest years of the present course.

(7) In calculating the number of years for the purpose of paragraph (3)(b), attendance for part of an academic year is treated as a whole academic year, except for academic years during which there is a transfer of status in accordance with regulation 8.

(8) The National Assembly may, at any time, renew or extend the period of eligibility for such further period as it determines.

(9) The period of eligibility terminates when the eligible student —

(a) withdraws from the student's designated course in circumstances where the National Assembly has not converted or will not convert the student's status as an eligible student under regulation 46(1); or

(b) abandons, or is expelled from, the student's designated course.

(10) The National Assembly may terminate the period of eligibility where the eligible student has shown himself or herself by his or her conduct to be unfitted to receive support.

(11) If the National Assembly 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 National Assembly 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 37.

**Previous study**

7.—(1) Subject to paragraph (3), an eligible student who has attained an honours degree following attendance on a previous course does not qualify for a grant or loan for fees or a grant for living costs.

(2) Subject to paragraphs (3) and (4), an eligible student who starts his or her course on or after 1 September 2006 does not qualify for a loan for living costs if he or she has attained an honours degree following attendance on a previous course .

(3) Paragraphs (1) and (2) do not apply to an eligible student attending a course for the initial training of teachers where the duration of the course does not exceed 2 years (the duration of a part-time course being expressed as its full-time equivalent) and the eligible student is not a qualified teacher.

(4) Paragraph (2) does not apply to an eligible student attending a course which leads to a qualification as a social worker, medical doctor, dentist, veterinary doctor, architect, landscape architect, landscape designer, town planner or town and country planner.

(5) For the purposes of this regulation and regulation 6 a previous course is any course the student attended before the present course and which meets the conditions in paragraph (6).

(6) The conditions referred to in paragraph (5) are that the course was a full-time higher education course provided by an institution in the United Kingdom and —

- (a) that institution was publicly funded at the time the course was provided; or
- (b) any scholarship, exhibition, bursary, grant, allowance or award of any description which was available in respect of the student's attendance on the course to defray fees was paid out of public funds or funds attributable to public funds by any person or body, public or private.

(7) Any reference in this regulation and regulation 6 to the duration of a course is a reference to the period ordinarily required for its completion -

- (a) by a student who is not excused from part of the course on account of the student having attended a previous course;
- (b) in the case of a sandwich course, including periods of work experience; and

- (c) not including any periods in which the student is eligible for a healthcare bursary or a Scottish healthcare allowance.

### **Transfer of Status**

8.—(1) Where an eligible student transfers to another course, the National Assembly 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 of transfer in paragraph (2) applies; and
- (c) the period of eligibility has not expired or been terminated.

(2) The grounds of transfer referred to in paragraph (1) are –

- (a) on the recommendation of the academic authority the eligible student starts to attend another course at the institution;
- (b) the eligible student starts to attend a designated course at another institution with the consent of the academic authority of that institution;
- (c) after commencing 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 of Bachelor of Education either at the same institution or at another institution;
- (d) after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the eligible student is, on or before 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 commencing a course for a first degree (other than an honours degree) the eligible student is, before 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) continues to receive in connection with the course to which he or she transfers the support for which the National Assembly has determined he or she qualifies in respect of the course from which he or she transfers for the remainder of the academic year in which he or she transfers.

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

**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 National Assembly an application in such form and accompanied by such documentation as the National Assembly may require.

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

(3) The National Assembly must notify the applicant of whether or not the applicant qualifies for support and, if the applicant 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 National Assembly 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 in paragraph (1) does not apply where —

- (a) the course becomes a designated course 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 National Assembly within a period of nine months beginning with the day on which the course was designated;
- (b) the applicant, the applicant’s spouse, the applicant’s civil partner or the applicant’s parent is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1 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 National Assembly within a period of nine months beginning with the day of recognition or the day leave was granted, respectively;
- (c) the applicant is not a person mentioned in paragraph 7 or paragraph 8 of Schedule 1 on the first day of the academic year in respect of which the applicant is applying for support but as a result of the accession of the state of which the applicant is a national to the European

Community the applicant becomes such a person, in which case the application must reach the National Assembly within a period of nine months beginning with the day of the accession;

- (d) the applicant is making a separate application for a loan for living costs under regulation 31 or an additional amount of loan under regulation 32(3), in which case the application must reach the National Assembly not later than one month before the end of the academic year in respect of which the applicant is applying for support;
- (e) the applicant is applying to borrow an additional amount of loan under regulation 32(1), in which case the application must reach the National Assembly 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;
- (f) the applicant is applying for a grant under regulation 18, in which case the application must reach the National Assembly as soon as is reasonably practicable;
- (g) the National Assembly 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 National Assembly not later than such date as it specifies.

### **Information**

11. Schedule 3 applies to the provision of information.

## **PART 4**

### **GRANTS FOR FEES**

#### **Qualifying conditions for grants for fees**

(a)

12.—(1) Subject to regulation 7, an old system eligible student qualifies in accordance with this regulation for a grant in respect of the fees<sup>(1)</sup> for an academic year payable by the student in respect of, or otherwise in connection with, the student's attendance on a designated course .

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(1) "fees" is defined in section 28(1) of the Teaching and Higher Education Act 1998 (c. 30).



(2) The amount of the grant for fees in respect of an academic year is determined in accordance with regulations 13 or 14.

(3) An eligible student does not qualify for support in respect of an academic year if —

- (a) in relation to that year he or she is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to his or her income;
- (b) in relation to that year he or she is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to his or her income;
- (c) he or she is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(1) and —
  - (i) his or her course is a course referred to in regulation 5(1)(d); and
  - (ii) all the periods of study during the academic year are at an institution outside the United Kingdom; or
- (d) he or she is undertaking a flexible postgraduate ITT course.
- (e)

**Amount of grants for fees at a publicly funded institution**

**13.—**(1) Subject to the following paragraphs, the amount of the grant for fees in respect of an academic year of a designated course at a publicly-funded institution is £1,200.

(2) Subject to paragraphs (3) and (4) the amount of the grant for fees in respect of an academic year is £600 in the following cases —

- (a) the final year of the course where that year is ordinarily 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-

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

time study at the institution (disregarding intervening vacations) exceeds 30 weeks;

- (c) in respect of a course for the initial training of teachers (including a course leading to a first degree), 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 the periods of full-time study at the institution in the United Kingdom are in aggregate less than 10 weeks; or
  - (ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full-time study at the institution in the United Kingdom (disregarding intervening vacations) exceeds 30 weeks; or
- (e) in respect of an academic year of a course provided by the British Institute in Paris which began before 1st September 2001.

(3) In the case of a designated course at Heythrop College, the amount of grant for fees in respect of an academic year is £2,145.

(4) A deduction may be made from the grant for fees determined under paragraph (1) or (2) in accordance with regulation 36.

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

14.—(1) Subject to the following paragraphs, the amount of the grant for fees in respect of an academic year of a designated course at a private institution is £1,125.

(2) Subject to paragraphs (4), (5) and (6), the amount of the grant for fees in respect of an academic year of a designated course at a private institution is £1,200 if –

- (a) the designated course begins on or after 1 September 2001
- (b) the designated course is provided on behalf of a publicly-funded institution; and
- (c) none of the circumstances in regulation 13(2) applies.

(3) Subject to paragraphs (4), (5) and (6), the amount of the grant for fees in respect of an academic year at a private institution is £600 if –

- (a) The designated course begins on or after 1 September 2001;
  - (b) The designated course is provided on or behalf of a publicly funded institution; and
  - (c) One or more of the circumstances in regulation 13(2) applies.
- (4) In the case of a designated course at the University of Buckingham, the amount of grant for fees in respect of an academic year is £2,840.
- (5) In the case of a designated course at the Guildhall School of Music, the amount of the grant for fees in respect of an academic year is £4,355.
- (6) A deduction may be made from the grant for fees in accordance with regulation 36.

## PART 5

### LOANS FOR FEES

#### **General qualifying conditions for loans for fees**

**15.—**(1) An eligible student qualifies for a loan for fees in connection with the student's attendance on a designated course under this Part provided that the student is not excluded from qualification by the following paragraph or regulation 7.

(2) An eligible student does not qualify for a loan for fees in respect of an academic year if —

- (a) in relation to that year he or she is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to his or her income;
- (b) in relation to that year he or she is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to his or her income;
- (c) he or she is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS(1) and —
  - (i) his or her course is a course referred to in regulation 5(1)(d); and
  - (ii) all the periods of study during the academic year are at an institution outside the United Kingdom; or
- (d) he or she is undertaking a flexible postgraduate ITT course.

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

## **Fee contribution loans**

**16.**—(1) Subject to paragraph (7), an old system eligible student qualifies in accordance with this regulation for a fee contribution loan in respect of the fees payable by him or her in respect of, or otherwise in connection with his or her attendance on a designated course.

(2) Where an old system eligible 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 amount deducted from his or her grant for fees in accordance with regulation 36.

(3) Where the only fee support for which an old system eligible student applies is a fee contribution loan, the amount of that loan in respect of an academic year of the designated course is the amount for which the student applies not exceeding £1,200 or, if any of the circumstances in regulation 13(2) apply, £600.

(4) An old system eligible student may apply to borrow an additional amount of fee contribution loan where –

- (i) the National Assembly determines that the maximum amount of fee contribution loan which has been notified to the student 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
- (ii) the National Assembly considers that the increase in the maximum amount does not result from the old system eligible student –
  - (aa) failing to provide information promptly which might affect his or her ability to qualify for a fee contribution loan for which he or she qualifies; or
  - (bb) providing information which is inaccurate in any material particular.

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

(6) Where an old system eligible student has applied for a fee contribution loan of less than the maximum amount to which he is entitled in relation to the academic year, he or she 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 or her case.

(7) Paragraph (1) does not apply to an eligible student undertaking a course at a private institution or at Heythrop College.

### **Fee loans**

17.—(1) A new system eligible student qualifies in accordance with this regulation for a loan in respect of the fees payable by him or her in respect of, or otherwise in connection with his or her attendance on a designated course.

(2) The amount of a fee loan in respect of an academic year of a designated course must not exceed the lesser of –

- (a) £3,000 or, where one of the circumstances in paragraph (3) applies, £1,500; and
- (b) the fees payable by the student in respect of, or otherwise in connection with, that year.

(3) The maximum amount of the fee loan in respect of an academic year is £1,500 in the cases specified in regulation 13(2).

(4) If the student's status as an eligible student is transferred for one designated course to another under these Regulations and one of the circumstances in paragraph (5) applies, the student may borrow an additional amount by way of fee loan in respect of the academic year of the course to which he or she transfers.

(5) The circumstances are –

- (a) the fees payable in respect of the academic year of the course to which the new system student transfers exceed the fees payable in respect of the academic year of the course from which the student has transferred; or
- (b) the academic year of the course to which the new system student transfers begins on a later date than the academic year of the course from which he or she has transferred.

(6) Where paragraph (5)(a) applies, the additional amount that the new system eligible student may borrow in respect of the academic year to which he or she transfers must not exceed an amount equal to the fees payable by him or her in respect of that academic year less the amount of any fee loan he or she has taken out in respect of the academic year from which he or she has transferred.

(7) Where paragraph (5)(b) applies, the additional amount that the new system eligible student may borrow in respect of the academic year to which he or she transfers must not exceed the lesser of –

- (a) £3,000 or, where one of the circumstances in regulation 13(2) applies, £1,500; and

(b) the fees payable by the student in respect of, or otherwise in connection with, that year.

(8) Where a new system eligible student has applied for a fee loan of less than the maximum amount available in relation to an academic year, he or she 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 or her case.

## PART 6

### GRANTS FOR LIVING COSTS

#### **General qualifying conditions for grants for living costs**

**18.**—(1) An eligible student qualifies for a grant for living costs under this Part provided that —

- (a) the student is not excluded from qualification by any of the following paragraphs or regulation 7; and
- (b) the student satisfies the qualifying conditions for the particular grant for living costs for which he or she is applying.

(2) An eligible student does not qualify for a grant for living costs under this Part if the only paragraph from 1 to 8 of Schedule 1 into which the student falls is paragraph 7.

(3) An eligible student does not qualify for a grant for living costs under this Part in respect of any academic year —

- (a) during which the student is eligible to receive any payment under a healthcare bursary the amount of which is calculated by reference to the student's income;
- (b) during which the student is eligible to receive a Scottish healthcare allowance the amount of which is calculated by reference to the student's income; or
- (c) 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.

(4) Paragraph (3)(c) does not apply for the purposes of regulation 17.

(5) With the exception of a grant under regulation 18, an eligible student does not qualify for a grant for living

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;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to the care of children and young persons, health or welfare or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;
- (c) unpaid service in the prison or probation and aftercare service in the United Kingdom;
- (d) unpaid research in an institution in the United Kingdom or, in the case of a student attending an overseas institution as part of his or her course, in an overseas institution; or
- (e) unpaid service with —
  - (i) a Health Authority or a Strategic Health Authority established pursuant to section 8 of the National Health Service Act 1977<sup>(1)</sup> or a Special Health Authority established pursuant to section 11 of that Act<sup>(2)</sup> or a local health board established pursuant to section 16BA to that Act<sup>(3)</sup>;
  - (ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(4)</sup>; or
  - (iii) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(5)</sup>.

(7) Where a student becomes an eligible student during the course of an academic year as a result of one of the events listed in paragraph (8), the student may qualify for a particular grant for living costs in accordance with this Part in respect of that academic year but does not qualify for a grant for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

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(1) 1977 c. 49; section 8 was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 1(2).  
(2) 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.  
(3) Section 16BA was inserted by the National Health Service Reform and Health Care Professions Act 2002, section 6(1).  
(4) 1978 c. 29.  
(5) S.I. 1972/1265 (N.I. 14).

- (8) The events referred to in paragraph (7) are —
- (a) the student's course becomes a designated course; or
  - (b) the student, the student's spouse, the student's civil partner or the student's parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1.

### **Grants for disabled students' living costs**

**19.**—(1) An eligible student qualifies in accordance with this regulation for a grant to assist with the additional expenditure which the National Assembly is satisfied the student is obliged to incur in respect of his or her undertaking a designated course by reason of a disability to which the student is subject.

(2) An eligible student does not qualify for a grant under this regulation unless the student undertakes the course in the United Kingdom.

(3) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the National Assembly considers appropriate.

- (4) The amount of the grant does not exceed —
- (a) £12,135 in respect of an academic year for expenditure on a non-medical personal helper;
  - (b) £4,795 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 or her course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
  - (d) £1,605 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in subparagraph (a) or (b) which exceeds the specified maxima.

(5) 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 (4)(b) is reduced by the amount of those payments.

(6) The maximum amount of grant under paragraphs (4)(a) and (4)(d) is £9,105 and £1,200, 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 attendance (including attendance for the purpose of teaching practice) are in aggregate less than 6 weeks.

#### **Grants for students who have left care**

**20.**—(1) An eligible student qualifies for a grant under this regulation in connection with the student's 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 falls within paragraph 2(f) of Schedule 4; and
  - (c) in the opinion of the National Assembly, the eligible student is subject to greater financial hardship by virtue of falling within paragraph 2(f) of Schedule 4 than the student would otherwise have been.

(3) Subject to paragraph (4), the amount of grant is such amount as the National Assembly 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 or her course.

#### **Grants for dependants - general**

**21.**—(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 22 to 25.

(3) A deduction may be made from any element of the grant for dependants in accordance with regulation 36.

#### **Grants for dependants - adult dependants' grant**

**22.**—(1) An eligible student qualifies for an adult dependants' grant in connection with his or her attendance on a designated course in accordance with this regulation.

(2) The adult dependants' grant is available in respect of either -

- (a) the eligible student's partner; or

- (b) an adult dependant of the eligible student whose net income does not exceed £3,350.

(3) The amount of adult dependants' grant payable in respect of an academic year is calculated in accordance with regulation 25, the basic amount being –

- (a) £2,455; 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 £2,455 as the National Assembly considers reasonable in the circumstances.

(4) The amount of adult dependants' grant calculated under regulation 25 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 or she is entitled under the statutory award.

#### **Grants for dependants - childcare grant**

**23.**—(1) An eligible student qualifies, in connection with his or her attendance on a designated course, for a grant in respect of childcare costs for each dependent child in accordance with this regulation.

(2) Subject to paragraph (3), an eligible student qualifies for a childcare grant in respect of an academic year where childcare is provided by an approved or registered childcare provider if –

- (a) the child is under the age of 15 immediately before the beginning of the academic year; or
- (b) the child has special educational needs within the meaning of section 312 of the Education Act 1996<sup>(1)</sup> and is under the age of 17 immediately before the beginning of the academic year.

(3) An eligible student does not qualify for a grant under this regulation if the student or the student's partner has elected to receive the childcare element of the working tax credit under Part I of the Tax Credits Act 2002<sup>(2)</sup>.

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

(2) 2002 c. 21.

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

- (a) for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of [£175] per week; or
- (b) for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of [£300] 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.

(5) 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 childcare costs 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 (4) by the proportion which the number of days of that week falling within the academic year bears to the number of days in a week.

(6) The amount of childcare grant calculated under regulation 25 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 or she is entitled under the statutory award.

(7) In this regulation —

- (a) "approved childcare provider" means a childcare provider within the meaning of the Tax Credit (New Category of Child Care Provider) Regulations 1999<sup>(1)</sup> who has been approved in accordance with those Regulations; and
- (b) "registered childcare provider" means a person who acts as a child minder or provides day care and is registered within the meaning of section 79F of the Children Act 1989<sup>(2)</sup> (grant or refusal of registration of child minders and persons providing day care for young children).

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(1) S.I. 1999/3110.

(2) 1989 c. 41; section 79F was inserted by the Care Standards Act 2000 (c. 14).

### **Grants for dependants - parents' learning allowance**

**24.**—(1) An eligible student qualifies in connection with the student's attendance on a designated course for the parents' learning allowance if the student has one or more dependent children.

(2) The amount of parents' learning allowance payable in respect of an academic year is calculated in accordance with regulation 23, the basic amount being £1,400.

### **Grants for dependants - calculations**

**25.**—(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 22 to 24 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 22;
- (b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 23; and
- (c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 24.

(2) Subject to paragraphs (4) and (5), 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 the adult dependants' grant calculated under this regulation is reduced in accordance with regulation 22(5).

(5) The amount of the childcare grant calculated under this regulation must be reduced in accordance with regulation 23(6).

(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 £1,075 where the eligible student has no dependent child;

£3,225 where the eligible student is not a lone parent and has one dependent child;

£4,300 where the eligible student is not a lone parent and has more than one dependent child;

£4,300 where the eligible student is a lone parent and has one dependent child;

£5,380 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 an eligible student as a result of an event referred to in regulation 18(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 National Assembly shall 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 National Assembly, the longest of any vacation occurs;
- (b) otherwise, a quarter other than the one quarter during which, in the opinion of the National Assembly, the longest of any vacation occurs.

## Grants for dependants - interpretation

26.—(1) In regulations 21 to 25 —

- (a) “adult dependant” means, in relation to an eligible student, an adult person dependent on the student other than the student’s child, the student’s partner or former partner (including a spouse or civil partner who is not ordinarily living with the student);
- (b) “child” in relation to an eligible student includes any child of the student’s partner and any child for whom the student has parental responsibility where those children are dependent on the student;
- (c) “dependant” means, in relation to an eligible student, the student’s partner, the student’s dependent child or an adult dependant, who in each case is not an eligible student and does not hold a statutory award;
- (d) “dependent” means wholly or mainly financially dependent;
- (e) “lone parent” means an eligible student who does not have a partner and who has a dependent child or dependent children;
- (f) “net income” has the meaning given in paragraph (2);
- (g) subject to sub-paragraphs (h), (i) and (j), “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 or she were his or her spouse where an eligible student falls within paragraph 2(a) of Schedule 4 and begins the designated course on or after 1st September 2000;
  - (iv) a person ordinarily living with an eligible student as if they were the student’s civil partner where an eligible student falls within paragraph 2(a) of Schedule 4 and begins the designated course on or after 1st September 2005;
- (h) a person who would otherwise be a partner under sub-paragraph (g) is not treated as a partner if —
  - (i) in the opinion of the National Assembly, that person and the eligible student have ceased ordinarily to live together; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible student;
- (i) for the purposes of sub-paragraph (a), a person is treated as a partner if the person would be a

partner under sub-paragraph (g) but for the fact that the eligible student with whom the person is ordinarily living does not fall within paragraph 2(a) of Schedule 4;

- (j) for the purposes of sub-paragraphs (b) and (e), a person is treated as a partner if the person would be a partner under sub-paragraph (g) but for the date on which the eligible student began the student's course or the fact that the eligible student with whom the person is ordinarily living does not fall within paragraph 2(a) of Schedule 4.

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

- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the dependant is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>;
- (c) any financial support payable to the dependant by a local authority in accordance with regulations made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002<sup>(2)</sup>;
- (d) any guardian's allowance to which the dependant is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (e) in the case of a dependant with whom a child in the care of a local authority is boarded out, any payment made to that dependant in pursuance of section 23 of the Children Act 1989<sup>(3)</sup>;
- (f) any payments made to the dependant under section 15 of and Schedule 1 to the Children Act 1989 in respect of a person who is not the dependant's child or any assistance given by a local authority pursuant to section 24 of that Act; and
- (g) any child tax credit to which the dependant is entitled under Part I of the Tax Credits Act 2002.

(3) Where an eligible student or the student's partner makes any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first academic year of the student's

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(1) 1992 c. 4.  
(2) 2002 c. 38.  
(3) 1989 c. 41.

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 National Assembly the obligation had been reasonably incurred; or
- (b) such lesser amount, if any, as the National Assembly considers appropriate if, in its opinion, a lesser obligation could reasonably have been incurred.

(4) For the purposes of paragraph (2), where the dependent 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.

### **Grants for travel**

27.—(1) 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 or she is obliged to incur in an academic year for the purpose of attending in connection with his or her course any hospital or other premises in the United Kingdom (not comprised in the institution) at which facilities for clinical training are provided other than expenditure incurred for the purpose of residential study away from the institution.

(2) A grant is available to an eligible student in respect of the reasonable expenditure which he or she is obliged to incur in an academic year within or outside the United Kingdom for the purpose of attending for a period of at least eight weeks as part of his or her course an overseas institution or the British Institute in Paris.

(3) The amount of grant payable in respect of an academic year is equal to the reasonable expenditure which the National Assembly determines the eligible student is obliged to incur for the purposes in paragraph (1) or paragraph (2).

(4) In determining the expenditure incurred by an eligible student £285 of such expenditure is disregarded.

(5) For the purposes of this regulation any reference to expenditure incurred for the purpose of attending an institution or period of study —

- (a) includes expenditure both before and after so attending; and
- (b) does not include any expenditure in respect of which a grant is payable under regulation 19.

(6) Where an eligible student attends for a period of at least eight weeks as part of his or her course an overseas institution or the British Institute in Paris and he or she reasonably incurs any expenditure in insuring against liability for the cost of medical treatment provided



outside the United Kingdom for any illness or bodily injury contracted or suffered during that period he or she qualifies for additional grant under this regulation equal to the amount so incurred.

(7) A deduction may be made from a grant under this regulation in accordance with regulation 36.

### **Higher education grants**

**28.**—(1) An old system eligible student qualifies in accordance with this regulation for a higher education grant in connection with his or her attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

(2) An old system eligible student does not qualify for a higher education grant unless he or she begins the designated course on or after 1st September 2004.

(3) The maximum amount of higher education grant available in respect of an academic year is £1,000.

(4) An eligible student who qualifies for a higher education grant is entitled to receive an amount as follows —

- (a) in any case where the household income is £15,580 or less, he or she is entitled to receive the maximum amount of grant available;
- (b) in any case where the household income exceeds £15,580 and does not exceed £21,565, he or she receives an amount equal to  $M - A$ , where  $M$  is £1,000 and  $A$  is £1 for every complete £6.30 by which the household income exceeds £15,580; ; and

in any case where the household income exceeds £21,565, no grant is payable under this regulation.

### **Maintenance grant**

**29.**—(1) A new system eligible student qualifies in accordance with this regulation for a maintenance grant for living costs in connection with his or her attendance on a designated course.

(2) A new system student does not qualify for a maintenance grant if he or she qualifies for a special support grant.

(3) An eligible student does not qualify for a maintenance grant unless he or she begins the designated course on or after 1 September 2006.

(4) The maximum amount of maintenance grant available in respect of an academic year is

- (a) in the case of a type 1 teacher training student, £1,350;

- (b) in the case of a type 2 teacher training student, £2,700; and
  - (c) in the case of a new system student other than a type 1 or type 2 teacher training student, £2700.
- (5) 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 £17,500 or less, he or she receives £1,350;
  - (b) where household income exceeds £17,500 but does not exceed £26,500, he or she receives an amount equal to  $M - (A/2)$  where **M** is £1,350 and **A** is £1 for every £6 by which household income exceeds £17,500; and
  - (c) where the household income exceeds £26,500, he or she receives £600.
- (6) 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 £17,500 or less, he or she receives £2,700;
  - (b) where household income exceeds £17,500 but does not exceed £26,500, he or she receives an amount equal to  $M - A$  where **M** is £2,700 and **A** is £1 for every £6 by which household income exceeds £17,500; and
  - (c) where the household income exceeds £26,500, he or she receives £1,200.
- (7) A new system eligible 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 £17,500 or less, he or she receives £2,700;
  - (b) where household income exceeds £17,500 but does not exceed £26,500, he or she receives an amount equal to  $M - A$  where **M** is £2,700 and **A** is £1 for every £6 by which household income exceeds £17,500;
  - (c) where household income exceeds £26,500 but does not exceed £37,425, he or she receives an amount equal to  $RM - A$ , where **RM** is £1,200 and **A** is £1 for every complete £9.50 by which household income exceeds £26,500;
  - (d) where the household income exceeds £37,425, no maintenance grant is payable.

## Special Support Grant

**30.**—(1) A new system eligible student qualifies in accordance with this regulation for a special support grant in connection with his or her attendance on a designated course to defray the cost of books, equipment, travel or childcare incurred for the purpose of attending that course.

(2) A new system student qualifies for a special support grant if he or she falls within a prescribed category of person for the purposes of section 124(1)(e) of the Social Security Contributions and Benefits Act 1992.

(3) 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, £1,350;
- (b) in the case of a type 2 teacher training student, £2,700; and
- (c) in the case of a new system student other than a type 1 or type 2 teacher training student, £2700.

(4) A type 1 teacher training student who qualifies for 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 £17,500 or less, he or she receives £1,350;
- (b) where household income exceeds £17,500 but does not exceed £26,500, he or she receives an amount equal to  $M - (A/2)$  where  $M$  is £1,350 and  $A$  is £1 for every £6 by which household income exceeds £17,500; and
- (c) where the household income exceeds £26,500, he or she receives £600.

(5) A type 2 teacher training student who qualifies for 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 £17,500 or less, he or she receives £2,700;
- (b) where household income exceeds £17,500 but does not exceed £26,500, he or she receives an amount equal to  $M - A$  where  $M$  is £2,700 and  $A$  is £1 for every £6 by which household income exceeds £17,500; and
- (c) where the household income exceeds £26,500, he or she receives £1,200.

(6) A new system eligible 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 £17,500 or less, he or she receives £2,700;

- (b) where household income exceeds £17,500 but does not exceed £26,500, he or she receives an amount equal to  $M-A$  where  $M$  is £2,700 and  $A$  is £1 for every £6 by which household income exceeds £17,500;
- (c) where household income exceeds £26,500 but does not exceed £37,425, he or she receives an amount equal to  $RM - A$ , where  $RM$  is £1,200 and  $A$  is £1 for every complete £9.50 by which household income exceeds £26,500;
- (d) where the household income exceeds £37,425, no maintenance grant is payable.

(i)

## PART 7

### LOANS FOR LIVING COSTS

#### Qualifying conditions for loans for living costs

**31.**—(1) An eligible student qualifies for a loan for living costs in connection with the student's attendance on a designated course if the student satisfies the condition in paragraph (2) and is not excluded by paragraphs (3) or regulation 7.

(2) The condition referred to in paragraph (1) is that the eligible student is under the age of 60 on the relevant date.

(3) An eligible student does not qualify for a loan for living costs if the only paragraph from 1 to 8 of Schedule 1 into which the student falls is paragraph 7.

(a)

#### Maximum amount of loans for old system eligible students with full entitlement

**32.**—(1) Subject to regulations 36 to 41, the maximum amount of loan for living costs for which an old system eligible student with full entitlement qualifies in respect of an academic year (other than the final year of an accelerated course) is —

- (a) for a student in category A, £3,415;
- (b) for a student in category B, £6,170;
- (c) for a student in category C, £5,255;
- (d) for a student in category D, £5,255;
- (e) for a student in category E, £4,405.

(2) Subject to regulations 36 to 41, the maximum amount of loan for living costs for which an old system eligible student with full entitlement qualifies in respect

of an academic year which is the final year of a course other than an accelerated course is —

- (a) for a student in category A, £3,085;
- (b) for a student in category B, £5,620;
- (c) for a student in category C, £4,570;
- (d) for a student in category D, £4,570;
- (e) for a student in category E, £4,080.

**Maximum amount of loan for new system eligible students with full entitlement**

**33.**—(1) This regulation applies to a new system eligible student with full entitlement other than a type 1 or type 2 teacher training student with a household income exceeding £37,900.

(2) Subject to regulations 36 to 41, 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 a final year of a course that is not an accelerated course) is equal to **(X-Y)** -

Where

**X** is –

- (i) for a student in category A, £3,415;
- (ii) for a student in category B, £6,170;
- (iii) for a student in category C, £5,255;
- (iv) for a student in category D, £5,255;
- (v) for a student in category E, £4,405;

**Y** is the maintenance grant amount.

(3) Subject to regulations 36 to 41, 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 equal to **(X-Y)** –

Where

**X** is –

- (i) for a student in category A, £3,085;
- (ii) for a student in category B, £5,620;
- (iii) for a student in category C, £4,570;
- (iv) for a student in category D, £4,570;
- (v) for a student in category E, £4,080;

**Y** is the maintenance grant amount.

(4) In this regulation, “the maintenance grant amount” is -

- (a) where the student qualifies under regulation 29 for an amount of maintenance grant not exceeding £1,200, the amount of maintenance grant payable;

- (b) where the student qualifies under regulation 29 for an amount of maintenance grant exceeding £1,200, £1,200; and
- (c) where no maintenance grant is payable, nil.

**34.—**(1) This regulation applies to a type 1 and type 2 teacher training student with a household income exceeding £37,900.

(2) Subject to regulations 36 to 41, 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, £3,415;
- (b) for a student in category B, £6,170;
- (c) for a student in category C, £5,255;
- (d) for a student in category D, £5,255;
- (e) for a student in category E, £4,405.

(3) Subject to regulations 36 to 41, the maximum loan for living costs for which a student to whom this regulation applies qualifies in respect of an academic year of a course (other than the final year of a course that is not an accelerated course) is –

- (a) for a student in category A, £3,085;
- (b) for a student in category B, £5,620;
- (c) for a student in category C, £4,570;
- (d) for a student in category D, £4,570;
- (e) for a student in category E, £4,080.

#### **Students with reduced entitlement**

**35.—**(1) Subject to regulations 36 to 41, 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 than is not an accelerated course) is –

- (a) where the student falls within regulation 18(3)(a) or 18(3)(b) –
  - (i) for a student in category A, £1,620;
  - (ii) for a student in category B, £3,030;
  - (iii) for a student in category C, £2,160;
  - (iv) for a student in category D, £2,160;
  - (v) for a student in category E, £2,160;
- (b) where the student falls within regulation 18(3)(c) or 18(5) –
  - (i) for a student in category A, £1,620;
  - (ii) for a student in category B, £3,030;
  - (iii) for a student in category C, £2,585;
  - (iv) for a student in category D, £2,585;

- (v) for a student in category E, £2,160;
- (c) where the student applies for a loan for living costs and opts not to provide details of the income of his or her household –
  - (i) for a student in category A, £2,560;
  - (ii) for a student in category B, £4,630;
  - (iii) for a student in category C, £3,940;
  - (iv) for a student in category D, £3,940;
  - (v) for a student in category E, £3,905.

(2) Subject to regulations 36 to 41, 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 accelerated course is –

- (a) where the student falls within regulation 18(3)(a) or 18(3)(b) –
  - (i) for a student in category A, £1,230;
  - (ii) for a student in category B, £2,320;
  - (iii) for a student in category C, £1,680;
  - (iv) for a student in category D, £1,680;
  - (v) for a student in category E, £1,680;
- (b) where the student falls within regulation 18(3)(c) or 18(5) –
  - (i) for a student in category A, £1,320;
  - (ii) for a student in category B, £2,320;
  - (iii) for a student in category C, £1,885;
  - (iv) for a student in category D, £1,855;
  - (v) for a student in category E, £1,680;
- (c) where the student applies for a loan for living costs and opts not to provide details of the income of his or her household –
  - (i) for a student in category A, £2,315;
  - (ii) for a student in category B, £4,215;
  - (iii) for a student in category C, £3,430;
  - (iv) for a student in category D, £3,430;
  - (v) for a student in category E, £3,060.

### **Students residing with parents**

**36.**—(1) Subject to paragraph (1), where an eligible student resides at his or her parents' home and the National Assembly is satisfied that in all the circumstances the student's parents by reason of age, incapacity or otherwise cannot reasonably be expected to support the student and that it would be appropriate for the amount of loan payable to a student in a category

other than category A to apply in his or her case, the student must be treated as if the student were not residing at the student's parents' home.

(2) Paragraph (1) does not apply to an eligible student who begins a course on or after 1st September 2004.

(3) Where an eligible student is a member of a religious order who resides in a house of his or her order the student is treated as if the student were residing at the student's parents' home.

**Loans for living costs payable in respect of three quarters of the academic year**

37. A loan is payable in respect of three quarters of the academic year and is not payable in respect of the quarter in which, in the opinion of the National Assembly, the longest of any vacations occurs.

**Students falling into more than one category**

38.—(1) Where a student falls into more than one of the categories in regulation 35 in the course of the academic year —

- (a) the maximum amount of loan for the academic year is the aggregate of the maximum amount of loan for each quarter in respect of which the loan is payable;
- (b) the maximum amount of loan for each such quarter is one third of the maximum amount of 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
- (c) subject to paragraph (2), 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 the academic year.

**Category C cannot be the category applicable to a quarter unless the student is attending an overseas institution for at least half of the period covered by that quarter. Students becoming eligible during the course of an academic year**

39.—(1) Where a student becomes an eligible student during the course of an academic year as a result of one of the events listed in paragraph (2), the student may qualify for a loan for living costs in respect of such quarters of that academic year in respect of which a loan



for living costs is payable as begin after the relevant event in paragraph (2) occurs.

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

- (a) the student's course becomes a designated course; or
- (b) the student, the student's spouse, the student's civil partner or the student's parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1.

(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 each quarter in respect of which the student qualifies for support under this regulation.

(5) The maximum amount of loan for each such quarter is one third of the maximum amount of 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.

**Increases in maximum amount**

40.—(1) Where an eligible student is required to attend his or her course for a period exceeding 30 weeks and 3 days in an academic year, the maximum amount of loan for living costs specified in regulations 32 to 35 must be increased for each week or part week of attendance in that academic year beyond 30 weeks and 3 days as follows:

- (a) for a student in category A, by £51;
- (b) for a student in category B, by £98;
- (c) for a student in category C, by £107;
- (d) for a student in category D, by £107;
- (e) for a student in category E, by £77.

(2) Where an eligible student attends his or her course for a period of not less than 45 weeks in any continuous period of 52 weeks the amount of loan for living costs specified in regulations 32 to 35 must ben increased for each week during the 52 week period during which the student did not attend by the amounts referred to in paragraph (1).

(3) This regulations does not apply in the case of a student with reduced entitlement.



and

(a) .

**Deductions from loans for living costs**

41.—(1) A deduction from the amount of loan for living costs calculated under this Part in respect of an old system eligible student with full entitlement or a new system eligible student with full entitlement may be made from the loan for living costs in accordance with regulation [34].

(2) A deduction from the amount of loan for living costs calculated under this Part in respect of a student with reduced entitlement may not be made under regulation [ ].

**Interpretation of Part 7**

42.—(1) In this regulation —

- (a) a student is in category A if the student resides at his or her parents’ home while attending the designated course;
- (b) a student is in category B if he or she is not in category A and 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 the student undertakes such work experience or combination of work experience and study for at least half the time in aggregate of any quarter of the course in the academic year at a site or sites wholly or partly within the area comprising the City

of London and the former Metropolitan Police District;

- (c) a student is in category C if the student is not in category A and attends an overseas institution as part of his or her course for at least eight consecutive weeks in the academic year;
- (d) a student is in category D if the student is not in category A and attends the British Institute in Paris;
- (e) a student is in category E if the student is not in categories A to D.
- (f) a “new system eligible student with full entitlement” is a new system student other than a student with reduced entitlement;
- (g) an “old system eligible student with full entitlement” is an old system student other than a student with reduced entitlement;
- (h) the “relevant date” means the first day of the first year of the specified designated course;
- (i) a “student with reduced entitlement” is an eligible student who
  - (i) is not eligible for a grant for living or other costs by virtue of regulation 18(3)(a) or 18(3)(b);
  - (ii) is not eligible for a grant for living costs by virtue of regulation 18(3)(c) or 18(5); or
  - (iii) opts when applying for a loan for living costs not to provide details of the income of his or her household;
  - (iv) where the duration of a course of initial training for teachers is only one academic year, that year is not to be treated as the final year.

## PART 8

### GENERAL LOAN PROVISIONS

#### **Additional amount of loans**

**43.—(1)** An eligible student may apply to borrow an additional amount of loan where —

- (a) the National Assembly determines that the maximum amount of loan which has been notified to the student 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 National Assembly considers that the increase in the maximum amount does not result from the eligible student —

(i) failing to provide information promptly which might affect his or her ability to qualify for a loan or the amount of loan for which he or she qualifies; or

(ii) providing information which 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 of less than the maximum amount to which he or she is entitled in relation to the academic year, he or she 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 or her case.

### **Interest**

**44.**—(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<sup>(1)</sup> equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March 2004 and that index so published for March 2005.

(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<sup>(2)</sup> loans bear interest at the rate so specified.

(3) Interest is calculated on the principal outstanding daily and is added to the principal monthly.

(4) The index of prices to which the National Assembly is required by section 22(8) of the Act to have regard in prescribing the rate of interest which loans bear is the retail prices all items index mentioned in paragraph (1).

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(1) S.I. 1980/51, amended by S.I. 1989/596 and S.I. 1999/3177.

(2) 1974 c. 39.

## PART 9

### FINANCIAL ASSESSMENT

#### **Calculation of contribution**

**45.**—(1) An eligible student's contribution in respect of an academic year is the amount, if any, calculated under Schedule 4.

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

**46.**—(1) An amount equal to the contribution calculated under Schedule 4 must be applied until it is extinguished against the amount of the particular grants and loans for which the eligible student qualifies as follows —

- (a) first, to reduce **GFF**;
- (b) second, to reduce **ADG**;
- (c) third, to reduce **CCG**;
- (d) fourth, to reduce **PLA**;
- (e) fifth, to reduce **LLC** to no less than the minimum level for the academic year;
- (f) sixth, to reduce **GFT**.

(2) In this regulation —

- (a) subject to sub-paragraph (b), **GFF** is the amount, if any, of a grant for fees for which the eligible student qualifies under Part 4 other than fees payable in respect of the student's attendance —
  - (i) at a course at an institution which is not publicly funded (unless the course is referred to in regulation 12(4)(a)(i)); or
  - (ii) at a course referred to in paragraph 4 of Schedule 2 (other than a course for a first degree);
- (b) **GFF** is £1,200 where —
  - (i) regulation 12(2)(c), (e), (f) or (g) applies to the grant for fees for which the student qualifies; or
  - (ii) the student does not qualify for a grant for fees because of regulation 11(7)(c);
- (c) **ADG** is the amount, if any, of the adult dependants' grant calculated in accordance with regulation 23;

- (d) **CCG** is the amount, if any, of the childcare grant calculated in accordance with regulation 23;
- (e) **PLA** is the amount, if any, of the parents' learning allowance calculated under regulation 23 (except the first £50 of the allowance);
- (f) **LLC** is the amount of loan for living costs, if any, for which the eligible student qualifies under regulation 29 other than a loan to which regulation 30(13), 30(14) or 30(15) applies;
- (g) **GFT** is the amount of the grant for travel for which the eligible student qualifies under regulation 25, if any;

(3) Subject to paragraphs (4) and (5), the “minimum level for the academic year” is —

- (a) £2,490, in the case of a student in category A;
- (b) £3,880, in the case of a student in category B;
- (c) £3,845, in the case of a student in category C;
- (d) £3,845, in the case of a student in category D;
- (e) £3,145, in the case of a student in category E;

(4) Subject to paragraph (5), where the academic year in question is the final year of a course other than an accelerated course, the “minimum level for the academic year” is —

- (a) £2,175, in the case of a student in category A;
- (b) £3,370, in the case of a student in category B;
- (c) £3,345, in the case of a student in category C;
- (d) £3,345, in the case of a student in category D;
- (e) £2,735, in the case of a student in category E.

(5) Where under regulation 30(7) different categories apply for different quarters of the academic year, the minimum levels in paragraphs (3) and (4) are the aggregate of the amounts determined under paragraph (6) for each of the three quarters in respect of which a loan is payable.

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

(7) Categories A to E have the meaning given in regulation 30.

## PART 10

### PAYMENTS

#### **Payment of grants or loans for fees**

47.—(1) The National Assembly must pay the grant or loan for fees for which a student qualifies after a

valid request for payment has been received 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, in the case of a grant only,
- (b) not later than 10 weeks after the expiry of the period in sub-paragraph (a), or promptly after a valid 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 or fee contribution loan for which the student qualifies, the National Assembly may make a provisional assessment.

(4) No payment of the grant or loan for fees may be made if—

- (a) the eligible student has not attended the premises of the academic authority to enrol on the course for that academic year,
- (b) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend the course; and
- (c) the academic authority has determined or agreed that the student will not commence attending again during the academic year in respect of which the fees are payable or at all.

(5) The National Assembly may waive the condition in paragraph (4)(a) where it is satisfied that the eligible student is undertaking the course.

#### **Payment of grants and loans for living costs**

**48.—**(1) Subject to the following paragraphs, the National Assembly must pay support under Part 6 or Part 7 and in such instalments (if any) and at such times as it considers appropriate and in the exercise of its functions under this paragraph it may, where a final assessment cannot be made on the basis of the information provided by the student, make a provisional assessment of the support payable.

(2) Payments of support under Part 6 or Part 7 may be made in such manner as the National Assembly considers appropriate and it may make it a condition of entitlement to payment that the eligible student provides it with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(3) Where an eligible student has applied for a loan under Part 7, the National Assembly may make it a condition of entitlement to payment of any instalment

that the eligible student provides it with the student's United Kingdom national insurance number.

(4) No support under Part 6 or Part 7 is payable in respect of a relevant period beginning after an eligible student has withdrawn from, abandoned or been expelled from his or her course; and the amount of support for the academic year is the aggregate of the support, if any, which is payable in respect of each relevant period.

(5) No support under Part 6 or Part 7 is payable in respect of a relevant period during any part of which an eligible student is absent from his or her course, unless in the opinion of the National Assembly it would be appropriate in all the circumstances to pay all or part of the support; and the amount of support for the academic year is the aggregate of the support, if any, which is payable in respect of each relevant period.

(6) In paragraphs (4) and (5) "relevant period" means a period in respect of which the National Assembly pays an instalment or would have paid an instalment if the eligible student had not withdrawn from, abandoned, been expelled from or been absent from his or her course.

(7) No support under Part 6 and 7 is payable unless the eligible student's attendance on the course has been confirmed in accordance with paragraphs (4) or (5) of regulation 35.

(8) In deciding whether it would be appropriate to pay all or part of the support under paragraph (5) the circumstances to which the National Assembly must have regard include the reasons for the student's absence, the length of the absence and the financial hardship which not paying all or part of the support would cause.

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

(10) Where, after the National Assembly has made any payment of support under Part 6 or Part 7, it makes a determination of the amount of a grant for living costs for which the student qualifies in respect of an academic year 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 and 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 grant for living costs for which the student qualifies in respect of the academic year;
- (d) any remaining overpayment must be recovered in accordance with regulation 37.

(11) Where the National Assembly has made any payment of support under Part 6 or Part 7 and a student who qualifies for a loan under Part 7 applies for such a loan or applies for an additional amount of loan in respect of an academic year, the National Assembly must pay the loan or the additional amount of loan and 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.

(12) Where, after the National Assembly has made any payment of loan for which a student qualifies in respect of an academic year under Part 7, it makes a determination that the amount of loan for which the student qualifies is less than the amount previously determined either by way of revision of a provisional determination or otherwise —

- (a) it must subtract such amount as is necessary to ensure that the student does not borrow an amount of loan which is greater than that for which he or she qualifies from any amount of loan which remains to be paid;
- (b) if the amount to be subtracted is greater than the amount of loan remaining to be paid, the latter amount is reduced to nil;
- (c) any remaining overpayment must be recovered in accordance with regulation 37.

### **Overpayments**

49.—(1) Any overpayment of a grant or loan for fees may be recovered by the National Assembly from the academic authority.

(2) An eligible student must, if so required by the National Assembly, repay any amount paid to the student under Part 6 or 7 which for whatever reason exceeds the amount of support to which he is entitled under Part 6 or 7.

(3) Any overpayment of any grant under Part 6 may be recovered in whichever one or more of the following ways the National Assembly considers appropriate in all the circumstances —

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made under section 22 of the Act;

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

(4) Any overpayment of a loan for living costs in respect of any academic year may be recovered if in the opinion of the National Assembly —

(a) the overpayment is a result of a failure of the student to provide promptly information which might affect whether he or she qualifies for a loan or the amount of loan for which he or she qualifies; or

(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 National Assembly considers to be material in the context of the recovery of the loan.

(5) Where an overpayment of a loan for living costs is recoverable in accordance with paragraph (4), it may be recovered in whichever one or more of the following ways the National Assembly considers appropriate in all the circumstances —

(a) by subtracting the overpayment from the amount of any loan payable to the student from time to time pursuant to regulations made under section 22 of the Act;

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

(6) Where there has been an overpayment of a loan for living costs which is not recoverable under paragraph (4), the National Assembly may subtract the overpayment from the amount of any loan payable to the student from time to time pursuant to regulations made under section 22 of the Act.

## PART 11

### SUPPORT FOR PART-TIME COURSES

#### **Eligible part-time students**

**50.—**(1) An eligible part-time student qualifies for support in connection with his or her undertaking a designated part-time course subject to and in accordance with this Part.

(2) A person is an eligible part-time student in connection with a designated part-time course if —

(a) the National Assembly has determined in connection with that course that the person is mentioned in Schedule 1; and

(b) the person is not excluded by paragraph (3).

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

- (a) there has been bestowed on that person or paid to that person in relation to his or her undertaking the part-time course —
  - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to the person's income;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(1); or
  - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to that person's income;
- (b) that person is in breach of any obligation to repay any loan;
- (c) that person has reached the age of 18 and has not ratified any agreement for a loan made with him or her when he or she was under the age of 18;
- (d) that person has, in the opinion of the National Assembly, shown himself by his or her conduct to be unfitted to receive support; or
- (e) subject to paragraph (4), he or she is a prisoner serving a custodial sentence.

(4) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

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

(6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) shall only apply 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 or she had no curator.

(7) An eligible part-time student does not qualify for support under regulation 41(1)(b) or regulation 42 if the only paragraph from 1 to 7 and 9 of Schedule 1 into which he falls is paragraph 7.

(8) An eligible part-time student does not qualify for support —

- (a) under regulation 41(1)(a) unless he or she undertakes the designated part-time course in England and Wales; or
- (b) under regulation 41(1)(b) or 42 unless he or she undertakes the designated part-time course in the United Kingdom.

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(1) S.I. 1992/580, amended by S.S.I. 2002/423 and S.S.I. 2003/401.

(9) An eligible part-time student does not qualify for support under regulation 41 if he or she has undertaken one or more part-time courses for eight academic years in aggregate and he or she has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (10).

(10) The loans and grants referred to in paragraph (9) are —

- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course pursuant to regulations made under section 22 of the Act;
- (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course by the Department for Employment and Learning (Northern Ireland) pursuant to regulations made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(1); 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(2).

(11) An eligible part-time student does not qualify for support under regulation 41 if he or she holds a first degree from an educational institution in the United Kingdom.

(12) For the purposes of paragraph (11), a degree is not 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 or her first degree course;
- (b) the course was undertaken at an educational institution in the United Kingdom; and
- (c) the eligible part-time student is registered to continue the course at the same educational institution after the award of his or her degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

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(1) S.I. 1998/1760 (N.I. 14).

(2) 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 (asp6), section 3(2) and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the National Assembly were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(13) Where a student becomes an eligible part-time student during the course of an academic year as a result of one of the events listed in paragraph (14), he or she may qualify for support in accordance with this Part in respect of that academic year but he or she does not qualify for support under this Part in respect of any academic year beginning before the academic year in which the relevant event occurred.

(14) The events referred to in paragraph (13) are -

- (a) the student's course becomes a designated part-time course; or
- (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1.

(15) Notwithstanding paragraph (2), a person is an eligible part-time student for the purposes of this Part if —

- (a) he or she qualified as an eligible part-time student in connection with an earlier academic year of the present designated part-time course pursuant to regulations made under section 22 of the Act and that status has not expired or been terminated; or
- (b) the National Assembly 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 present course

and the student's status as an eligible student or as an eligible part-time student in connection with that course has been converted or transferred from that course to the present course as a result of one or more conversions or transfers in accordance with regulations made under section 22 of the Act.

(16) An eligible part-time student does 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 postgraduate course.

### **Designated part-time courses**

**51.—(1)** Subject to paragraph (2), a part-time course is designated for the purposes of section 22(1) of the Act and regulation 38 if —

- (a) it is mentioned in Schedule 2, otherwise than in paragraph 4 of that Schedule;

- (b) it is of at least one academic year's duration and does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
- (c) 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; and
- (d) it is not designated by or under regulation 5.

(2) A course falling within paragraph 6 or 7 of Schedule 2 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) 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 regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
- (c) an institution is not 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(1).

(4) For the purposes of section 22 of the Act and regulation 38(1) the National Assembly may designate courses of higher education which are not designated by paragraph (1).

### **Period of eligibility**

**52.—**(1) An eligible part-time student retains his or her status as an eligible part-time student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” in paragraph (1) runs until the end of the academic year in which the eligible part-time student completes his or her designated part-time course.

(3) The National Assembly may, at any time, renew or extend the period of eligibility for such further period as it determines.

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(1) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

(4) The period of eligibility terminates when the eligible part-time student —

- (a) withdraws from his or her designated part-time course in circumstances where the National Assembly has not transferred or converted or will not transfer or convert his or her status under regulation 45 or 46; or
- (b) abandons or is expelled from his or her designated part-time course.

(5) The National Assembly may terminate the period of eligibility where the eligible part-time student has shown himself or herself by his or her conduct to be unfitted to receive support.

(6) If the National Assembly 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 National Assembly 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 49.

#### **Assistance for part-time courses**

**53.**—(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 in respect of an academic year of the designated part-time course; and
- (b) a grant not exceeding £750 for books, travel and other expenditure in connection with the designated part-time course.

(2) The basic grant varies according to the intensity of study.

(3) The intensity of study is calculated as follows and expressed as a percentage  $\text{FT/PT} \times 100$

where

**FT** is the number of academic years ordinarily required to complete a course which is the full-time equivalent of the designated part-time course

**PT** is the number of academic years ordinarily required to complete the designated part-time course.

(4) The “basic grant” is —

- (a) £590 where the intensity of study is less than 60 per cent. (“level 1”);
- (b) £710 where the intensity of study is 60 per cent. or more but less than 75 per cent. (“level 2”);
- (c) £885 where the intensity of study is 75 per cent. or more (“level 3”).

(5) Subject to paragraphs (6) and (7), the amount of assistance payable in respect of an academic year is as follows —

- (a) the maximum amount of assistance available under paragraph (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 the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> to income support, housing benefit or council tax benefit; or
  - (ii) under Part 1 of the Jobseekers Act 1995<sup>(2)</sup> to income-based jobseekers allowance or under section 2 of the Employment and

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(1) 1992 c. 4; Part VII was amended by the Housing Act 1991 (c. 52), Schedule 19, the Local Government Finance Act 1992 (c. 14), Schedule 9 and Schedule 14, the Jobseekers Act 1995 (c. 18), Schedule 2 and Schedule 3, the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8 and the State Pension Credit Act 2002 (c. 16), Schedule 2 and Schedule 3.

(2) 1995 c. 18; Part I was amended by the Employment Rights Act 1996 (c. 18), Schedule 1, the Social Security Act 1998 (c. 14), Schedules 7 and 8, the Welfare Reform and Pensions Act 1999 (c. 30), Schedules 7, 8 and 13, the State Pension Credit Act 2002 (c. 16), Schedule 2, the National Insurance Contributions Act 2002 (c. 19), Schedule 1 and the Income Tax (Earnings and Pensions) Act 2003 (c. 18), Schedule 6.



- (iii) Training Act 1973(1) to new deal allowance;
- (b) where the relevant income is less than £14,970, the maximum amount of assistance available under paragraph (1) is payable;
- (c) where the relevant income is £14,970, the maximum amount of assistance available under paragraph (1)(b) is payable together with £50 less than the maximum amount of assistance available under paragraph (1)(a);
- (d) where the relevant income exceeds £14,970 but is less than £19,625, the maximum amount of assistance available under paragraph (1)(b) is payable and the amount of assistance payable under paragraph (1)(a) is the amount determined in accordance with paragraph (6);
- (e) where the relevant income is £19,625, the maximum amount of assistance available under paragraph (1)(b) is payable and the amount of assistance payable under paragraph (1)(a) is £50;
- (f) where the relevant income exceeds £19,625 but is less than £20,100, the maximum amount of assistance available under paragraph (1)(b) is payable and no assistance is payable under paragraph (1)(a);
- (g) where the relevant income is £20,100 or more but less than £22,000, no assistance is available under paragraph (1)(a) and the amount of assistance payable under paragraph (1)(b) is the amount left after deducting from the maximum amount of assistance available under paragraph (1)(b) £1 for every complete £9.50 by which the relevant income exceeds £20,100;
- (h) where the relevant income is £22,000, no assistance is payable under paragraph (1)(a) and the amount of assistance payable under paragraph (1)(b) is £50;
- (i) where the relevant income exceeds £22,000, no assistance is payable under paragraph (1).

(6) Where paragraph (5)(d) applies, the amount of assistance payable under paragraph (1)(a) is determined by deducting from the maximum amount of assistance available under paragraph (1)(a) one of the following amounts —

- (a) £50 plus a further £1 for each complete £9.50, £7.63 or £5.93 by which the relevant income exceeds £14,970 according to whether the

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(1) 1973 c. 50; section 2 as substituted by the Employment Act 1988 (c. 19) was amended by the Employment Act 1989 (c. 38), Schedule 7. Subsections (3A) and (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47 in relation to Scotland only.

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 paragraph (1)(a) is payable).

(7) Where under regulation 451 a student receives assistance in relation to more than one designated part-time course in an academic year, the maximum amount of assistance under paragraph (1)(a) for that year is the amount of the basic grant for the course with the highest intensity of study that the student undertakes in that academic year.

(8) For the purposes of this regulation —

- (a) “child” in relation to an eligible part-time student includes any child of his or her partner and any child for whom he or she 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) subject to sub-paragraph (g), “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 woman ordinarily living with a male eligible part-time student as if she were his wife 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 designated part-time course before 1st September 2005;
  - (iv) a man ordinarily living with a female eligible part-time student as if he were her husband where an eligible part-time

student is aged 25 or over on the first day of the academic year in respect of which she is being assessed for assistance and where she began the designated part-time course before 1st September 2005;

- (v) a person ordinarily living with an eligible part-time student as if he or she were his or her spouse or civil partner where an eligible part-time student begins the designated part-time course on or after 1st September 2005;
  - (g) a person who would otherwise be a partner under sub-paragraph (f) is not treated as a partner if —
    - (i) in the opinion of the National Assembly, that person and the eligible part-time student have ceased ordinarily to live together; or
    - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;
  - (h) “preceding financial year” means the financial year immediately preceding the current financial year;
  - (i) “relevant income” has the meaning given in paragraph (9); and
  - (j) where this regulation refers to a date before, on or after which an eligible part-time student began the designated part-time course and the student’s status as an eligible part-time student has been transferred to the designated part-time course as a result of one or more transfers of that status by the National Assembly from a part-time course (the “initial course”) in connection with which the National Assembly determined the student to be an eligible part-time student pursuant to regulations made under section 22 of the Act, the eligible student is treated as if he or she began the present designated part-time course on the date on which he or she began the initial course.
- (9) For the purposes of this regulation —
- (a) subject to sub-paragraph (b), an eligible part-time student’s relevant income is equal to his or her financial resources in the preceding financial year less —
    - (i) £2,000 in respect of his or her partner;
    - (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his or her partner; and
    - (iii) £1,000 in respect of each other child who is dependent on the student or his or her partner;

- (b) where the National Assembly is satisfied that an eligible part-time student's financial resources in the preceding financial year are greater than his or her 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 under sub-paragraph (a) by reference to those resources in the current financial year;
- (c) an eligible part-time student's financial resources in a financial year means the aggregate of his or her 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.

### **Grants for disabled part-time students' living costs**

**54.**—(1) An eligible part-time student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the National Assembly is satisfied he or she is obliged to incur in respect of the student undertaking a designated part-time course by reason of a disability to which he or she is subject.

(2) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the National Assembly considers appropriate.

(3) The amount of the grant must not exceed —

- (a) £8,885 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £4,680 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 or her course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
- (d) £1,170 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**

**55.**—(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 National Assembly an application in

such form and accompanied by such documentation as the National Assembly may require.

(2) The general rule is that the application must reach the National Assembly 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.

(3) The general rule in paragraph (2) does not apply where —

- (a) the course becomes a designated part-time course 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 National Assembly within a period of six months beginning with the day on which the course was designated;
- (b) the applicant, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 1 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 National Assembly within a period of six months beginning with the day of recognition or the day the leave was granted, respectively; or
- (c) the applicant is applying for support under regulation 41, in which case the application must reach the National Assembly as soon as is reasonably practicable;
- (d) the National Assembly 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 National Assembly not later than such date as she specifies.

(4) The National Assembly 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 or she qualifies for support and the amount of support payable, if any.

(5) The National Assembly must notify the applicant of whether or not he or she qualifies for support and, if the applicant does qualify, the amount of support payable in respect of the academic year, if any.

### **Information**

56. Schedule 3 applies to the provision of information.

### **Transfer of status**

57.—(1) Where an eligible part-time student transfers to another part-time course, the National Assembly

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 expired or been terminated.

(2) The grounds for transfer referred to in paragraph (1) 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) shall, for the remainder of the academic year in which he or she transfers, continue to receive in connection with the course to which he or she transfers the support for which the National Assembly has determined he or she qualifies in respect of the course from which he or she transfers.

(4) The National Assembly may re-assess the amount of support payable after the transfer in accordance with this Part.

### **Conversion of status**

**58.—**(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 National Assembly 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 or she is transferring where —

- (a) it receives a request from the eligible student to do so; and
- (b) the period of eligibility has not expired or been 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 treated as satisfying regulation 39(1)(b) 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 normally 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 National Assembly has determined to pay an amount of grant to the student under regulation 17 in periodic instalments, no payment in respect of that amount of grant may be made in respect of any instalment period beginning after the date on which the student became an eligible part-time student;
- (b) the maximum amount of grant to which the student would, apart from this regulation, be entitled pursuant to regulation 42 in connection with his or her 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 or she became such a student in a later quarter of that year;
- (c) where an amount of grant for any purpose has been paid to the student under regulation 17 in a single instalment, the maximum amount of grant payable to him or her pursuant to regulation 42 for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him or her for that purpose pursuant to regulation 17, and where the resulting amount is nil or a negative amount that amount is nil; and
- (d) where immediately before he or she became an eligible part-time student he or she 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 for which he or she was entitled, he or she may apply for such a loan or such additional amount of loan as if he or she 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 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 National Assembly 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 or she 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 expired or been terminated.
- (6) The following applies to a student who transfers under paragraph (5) —
- (a) where the National Assembly has determined to pay an amount of grant to the student pursuant to regulation 42 in periodic instalments no payment in respect of that amount of grant may 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 must be ignored in determining the amount of support to which he or she may be entitled in respect of that year under Parts 4 to 7;
  - (c) the maximum amount of any support under Part 6 or 7 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 or she became such a student in a later quarter of that year; and
  - (d) where an amount of grant for any purpose has been paid to the student pursuant to regulation 42 in a single instalment, the maximum amount of grant payable to him or her under regulation 17 for that purpose is reduced (or, where subparagraph (c) applies, further reduced) by the amount of grant paid to him for that purpose pursuant to regulation 42 and where the resulting amount is nil or a negative amount that amount is nil.

#### **Payment of support to eligible part-time students**

**59.**—(1) The National Assembly must pay support under regulation 42 and under regulation 41(1)(b) and in such instalments (if any) and at such times as it considers appropriate and in the exercise of its functions under this paragraph it may, where a final assessment cannot be made on the basis of the information provided by the student, make a provisional assessment of the support payable.



(2) Payments may be made in such manner as the National Assembly 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.

### **Payment of grants for fees**

**60.**—(1) Subject to paragraphs (2) (3) and (4), the National Assembly must pay the grant in respect of fees for which the student qualifies under regulation 41(1)(a) to the appropriate academic authority after a valid request for payment has been received.

(2) The National Assembly may make payments under paragraph (1) at such times and in such instalments as it sees fit.

(3) The National Assembly may make provisional payments under paragraph (1) in such cases as it deems appropriate.

(4) No payment may be made unless the National Assembly is satisfied that the student has been undertaking the course for 2 weeks.

### **Overpayments**

**61.**—(1) Any overpayment of a grant in respect of fees under regulation 41(1)(a) may be recovered by the National Assembly from the academic authority.

(2) An eligible part-time student must, if so required by the National Assembly, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which he or she is entitled under this Part.

(3) Any overpayment of grant under this Part may be recovered in whichever one or more of the following ways the National Assembly considers appropriate in all the circumstances -

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to it .

**PART 12**  
**SUPPORT FOR POSTGRADUATE**  
**STUDENTS WITH DISABILITIES**

**Eligible postgraduate students**

**62.**—(1) An eligible postgraduate student, subject to and in accordance with this Part, qualifies for a grant to assist with the additional expenditure he or she is obliged to incur in connection with his or her undertaking a designated postgraduate course by reason of a disability to which he or she is subject.

(2) A person is an eligible postgraduate student in connection with a designated postgraduate course if that person satisfies the conditions in paragraph (3) and is not excluded by paragraph (4).

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

- (a) the National Assembly has determined in connection with the designated postgraduate course that the person is mentioned in Schedule 1; and
- (b) the National Assembly is satisfied that, by reason of a disability to which the person is subject, he or she will be obliged to incur additional expenditure in respect of his or her undertaking the course.

(4) A person is not an eligible postgraduate student if —

- (a) there has been bestowed on him or her or paid to him or her in relation to his or her undertaking the course —
  - (i) a healthcare bursary;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992<sup>(1)</sup>;
  - (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 or her institution which includes any payment for the purpose of meeting additional expenditure incurred by the student by reason of his or her disability; or
  - (v) any allowance, bursary or award of similar description made by the General Social Care Council under section 67(4)(a) of the Care Standards Act 2000<sup>(2)</sup> which includes payment for meeting additional

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(1) S.I. 1992/580, amended by S.S.I 2002/423 and S.S.I 2003/401.

(2) 2000 c.14.

expenditure incurred by the student by reason of his or her disability; or

- (b) that person has, in the opinion of the National Assembly, shown himself or herself by his or her conduct to be unfitted to receive support.

(5) An eligible postgraduate student does not qualify for a grant under this Part if the only paragraph from 1 to 7 and 9 of Schedule 1 into which he or she falls is paragraph 7.

(6) An eligible postgraduate student does not qualify for a grant under this Part unless he or she is undertaking his or her course in the United Kingdom.

(7) Notwithstanding paragraph (2), a person is an eligible postgraduate student for the purposes of this Part if —

- (a) he or she qualified as an eligible postgraduate student in connection with an earlier academic year of the present designated postgraduate course pursuant to regulations made under section 22 of the Act and that status has not expired or been terminated; or
- (b) the following conditions are met —
  - (i) the National Assembly has previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the present course; and
  - (ii) the student's status as an eligible postgraduate student in connection with that course has been transferred from that course to the present course as a result of one or more transfers in accordance with regulations made under section 22 of the Act.

(8) An eligible postgraduate student does not, at any one time, qualify for support for —

- (a) more than one designated postgraduate course;
- (b) a designated postgraduate course and a designated course;
- (c) a designated postgraduate course and a designated part-time course.

### **Designated postgraduate courses**

**63.** A postgraduate course is designated for the purposes of section 22(1) of the Act and regulation 50 if —

- (a) it is a course entry for 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, the duration of which does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
  - (c) it is wholly provided by a publicly-funded educational institution or institutions in the United Kingdom or is 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.
- (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 regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
  - (c) an institution is not 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<sup>(1)</sup>.

(3) For the purposes of section 22 of the Act and regulation 50, the National Assembly may designate courses of higher education which are not designated under paragraph (1).

#### **Period of eligibility**

**64.—**(1) An eligible postgraduate student retains his or her status as an eligible postgraduate student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” in paragraph (1) is equal to the period ordinarily required for the completion of the designated postgraduate course.

(3) The National Assembly may, at any time, renew or extend the period of eligibility for such further period as it determines.

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

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(1) 1992 c.13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c.30), section 27.

- (a) withdraws from his or her designated postgraduate course in circumstances where the National Assembly has not transferred or will not transfer his or her status as an eligible postgraduate student to another course under regulation 53; or
- (b) abandons or is expelled from his or her designated postgraduate course.

(5) The National Assembly may terminate the period of eligibility where the eligible postgraduate student has shown himself or herself by his or her conduct to be unfitted to receive support.

(6) If the National Assembly 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 National Assembly 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 58.

#### **Transfer of status**

**65.—**(1) Where an eligible postgraduate student transfers to another postgraduate course, the National Assembly 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 expired or been terminated.

(2) The grounds for transfer referred to in paragraph (1) 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 with the consent of the academic authority of that institution.

(3) Subject to paragraph (4), an eligible postgraduate student who transfers under paragraph (1) shall, for the remainder of the academic year in which he or she transfers, continue to receive in connection with the course to which he or she transfers the support for

which the National Assembly has determined he or she qualifies in respect of the course from which he or she transfers.

(4) The National Assembly may re-assess the support after the transfer in accordance with this Part.

### **Applications for support**

**66.**—(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 National Assembly an application in such form and accompanied by such documentation as the National Assembly may require.

(2) The application must reach the National Assembly as soon as is reasonably practicable.

(3) The National Assembly may take such steps and make such inquiries as it considers necessary to determine whether the applicant is an eligible postgraduate student, whether he or she qualifies for a grant and the amount of grant payable, if any.

(4) The National Assembly must notify the applicant of whether or not he or she qualifies for a grant and, if he or she does qualify, the amount payable in respect of the academic year, if any.

### **Information**

**67.** Schedule 3 applies to the provision of information.

### **Amount of grants**

**68.** The grant under this Part is such amount as the National Assembly considers appropriate, not exceeding £5,640 in respect of an academic year.

### **Payment of grants**

**69.**—(1) The National Assembly must pay the grant for which a student qualifies under this Part and in such instalments (if any) and at such times as it considers appropriate and in the exercise of its functions under this paragraph it may make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

(2) Payments may be made in such manner as the National Assembly 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

70.—(1) An eligible postgraduate student must, if so required by the National Assembly, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which he or she is entitled under this Part.

(2) Any overpayment of grant under this Part may be recovered in whichever one or more of the following ways the National Assembly considers appropriate in all the circumstances —

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made under section 22 of the Act;
- (b) by taking such other action for the recovery of an overpayment as is available to it .

Signed on behalf of the National Assembly for Wales  
under section 66(1) of the Government of Wales Act  
1998(1)

Date

The Presiding Officer of the National Assembly

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(1) 1998 c.38.

2)

## SCHEDULE 1

Regulations 4, 38 and 50

### ELIGIBLE STUDENTS

1. A person who on the first day of the first academic year of the course —

- (a) is settled in the United Kingdom within the meaning of the Immigration Act 1971(1); and
- (b) meets the residence conditions referred to in paragraph 9.

2. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so resident since he or she was recognised as a refugee, or who is the spouse, civil partner or child of such a refugee, in each case who meets the residence condition in paragraph 9(a).

3. A person who —

- (a) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although the person is considered not to qualify for recognition as a refugee, it is thought right to allow the person to enter or remain in the United Kingdom;
- (b) has been granted leave to enter or to remain accordingly; and
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he or she was granted leave to enter or remain,

or who is the spouse, civil partner, child or step-child of such a person, where the person or, as the case may be the spouse, civil partner, child or step-child meets the residence conditions referred to in paragraph 9.

4. A person who is an EEA migrant worker and who —

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(1) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4.



- (a) is entitled to support by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community<sup>(1)</sup>, as extended by the EEA Agreement or Article 9(3) of Annex I to the Switzerland Agreement or, where the person is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another Member State in relation to matters which are the subject of either of those Articles; and
- (b) meets the residence conditions referred to in paragraph 9.

5. A person who is the spouse or civil partner of an EEA migrant worker and who —

- (a) is installed in the United Kingdom with his or her spouse or civil partner; and
- (b) meets the residence conditions referred to in paragraph 8.

6. A person who is the child of an EEA migrant worker and who —

- (a) is entitled to support by virtue of Article 12 of the above mentioned Council Regulation or Article 3(6) of Annex I to the Switzerland Agreement, or, where the person's migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another Member State in relation to matters which are the subject of either of those Articles; and
- (b) meets the residence conditions referred to in paragraph 9.

For the purposes of this paragraph, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is construed accordingly.

7. A person who on the first day of the first academic year of the course is a national of a Member State of the European Community or the child of such a national —

- (a) whose course is provided by an institution or institutions in Wales or by an institution or institutions in Wales in conjunction with an institution or institutions outside the United Kingdom; and
- (b) who meets the residence conditions referred to in paragraphs 9(b) and (c); and

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(1) OJ No. L257, 19.10.1968, p 2 (OJ/SE 1968 (II) p 475).

(c) who does not fall within paragraph 8.

**8.** A person who on the first day of the academic year of the course is a national of a Member State of the European Community—

- (a) who is ordinarily resident in Wales on the first day of the first academic year of the course;
- (b) who has been ordinarily resident throughout the three-year period preceding the first day of the of the first academic year of the course in the United Kingdom and Islands;
- (c) who, where he or she is a national of the United Kingdom, has a right to be treated no less favourably than a national of another Member State by virtue of having exercised a Community right of free movement; and
- (d) who, in a case where his or her ordinary residence referred to in sub-paragraph (b) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the European Economic Area immediately prior to the period of ordinary residence referred to in sub-paragraph (b).

**9.**The residence conditions referred to above are that —

- (a) the person is ordinarily resident in Wales on the first day of the first academic year of the course;
- (b) the person has been ordinarily resident throughout the three-year period preceding the first day of the first academic year of the course, in the case of a person mentioned in paragraphs 1 or 3, in the United Kingdom and Islands or, in the case of a person mentioned in paragraphs 4, 5, 6 or 7, in the European Economic Area or Switzerland; and
- (c) the person's residence in the United Kingdom and Islands or in the European Economic Area or Switzerland, as the case may be, has not during any part of the period referred to in sub-paragraph (b) been wholly or mainly for the purpose of receiving full-time education.
- (d)

## SCHEDULE 2

Regulations 5(1) and 39(1)

### DESIGNATED COURSES

**1.** A first degree course other than a course referred to in paragraph 4.

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 Qualification Authority.

4. A course for the initial training of teachers, including such a course leading to a first degree.

5. A course for the further training of teachers or youth and community workers.

6. 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.

7. A course providing education (whether or not in preparation for an examination) the standard of which is —

- (a) higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 6(a) or (b) above; but
- (b) not higher than that of a first degree course,

and for entry to which a first degree (or equivalent qualification) is not normally required.

## SCHEDULE 3

Regulations 10, 44 and 55

### INFORMATION

1. Every applicant, eligible student, eligible part-time student and eligible postgraduate student must, as soon as reasonably practicable after he or she is requested to do so, provide the National Assembly with such information as the National Assembly 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 National Assembly and provide it with particulars if any of the following occurs —

- (a) he or she withdraws from, abandons or is expelled from his or her course;
- (b) he or she transfers to any other course at the same or at a different institution;
- (c) he or she ceases to undertake his or her course and does not intend to or is not permitted to continue it for the remainder of the academic year;
- (d) he or she is absent from his or her 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 or her home or term-time address or telephone number changes.

3. Information provided to the National Assembly under these Regulations must be in the format that the National Assembly requires and, if it requires the information to be signed by the person providing it, an electronic signature in such form as the National Assembly may specify satisfies such a requirement.

## SCHEDULE 4

Regulations 26(6), 33(1) and 34(1)

### 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 designated course on or after 1st September 2004;
- (g) “parent” means a natural or adoptive parent and “child”, “mother” and “father” is 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 woman ordinarily living with a male eligible student as if she were his wife where an eligible student falls within paragraph 2(a) and he begins the designated course on or after 1st September 2000;
  - (iv) a man ordinarily living with a female eligible student as if he were her husband where an eligible student falls within paragraph 2(a) and she begins the designated course on or after 1st September 2000;
  - (v) a person ordinarily living with an eligible student as if he or she were his or her civil partner where an eligible student falls within paragraph 2(a) and he or she begins the 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 woman ordinarily living with the father of an eligible student as if she were his wife;

- (iv) a man ordinarily living with the mother of an eligible student as if he were her husband;
- (v) a person ordinarily living with the parent of an eligible student as if he or she 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 8 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 National Assembly considers the person will pay the largest amount of tax in that period (except as otherwise provided in paragraph 5).

### **Independent eligible student**

2. An independent eligible student means an eligible student in every case where —

- (a) he or she is aged 25 or over on the first day of the relevant year;
- (b) he or she has been 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 or she has no parent living;
- (d) the National Assembly is satisfied that neither of his or her parents can be found or that it is not reasonably practicable to get in touch with either of them;

- (e) he or she has communicated with neither of his or her parents for the period of one year before the beginning of the relevant year or, in the opinion of the National Assembly, he or she can demonstrate on other grounds that he or she is irreconcilably estranged from his or her parents;
- (f) he or she has pursuant to an order of a competent court been in the custody or care of, or has been provided with accommodation by, any legal person who is not the student's parent throughout any three-month period ending on or after the date on which he or she attains the age of 16 and before the first day of his or her course ("the relevant period") (provided that he or she has not in fact at any time during the relevant period been under the charge or control of his or her parents);
- (g) his or her parents are residing outside the European Community and the National Assembly 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 to send any relevant funds to the United Kingdom;
- (h) paragraph 5(9) applies and the parent whom the National Assembly considered the more appropriate for the purposes of that paragraph has died (irrespective of whether the parent in question had a partner);
- (i) he or she is a member of a religious order who resides in a house of that order;
- (j) he or she has care of a person under 18 years of age; or
- (k) he or she has supported himself or herself out of his or her 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 or she is treated as supporting himself or herself out of his or her earnings during any period which —
  - (i) he or she 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 or she 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 or she 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 or she held a State Studentship or comparable award;
- (v) he or she received any pension, allowance or other benefit paid by any person by reason of a disability to which he or she is subject, or by reason of confinement, injury or sickness; or

### **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 or her course before 1st September 2005, the residual income of the partner (other than a partner within the meaning of paragraph 1(j)(v)) of the student's parent (provided that the National Assembly has selected that parent under paragraph 5(9)); or
  - (ii) in the case of a new eligible student who began his or her course on or after 1st September 2005, the residual income of the partner of the student's parent (provided that the National Assembly 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), the sum of £1,025 is deducted —



- (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 is to be aggregated under sub-paragraph (2)(b) in the case of a parent student whose child or whose partner's child holds an award —

- (a) 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; or
- (b) in respect of which a parental contribution is otherwise applicable with reference to the parent student or his or her partner.

#### **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 or her 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 or she has leave of absence or is relieved of his or her 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, 619 or 639 of the Income and Corporation Taxes Act 1988<sup>(1)</sup>, or where the eligible student's income is computed for the purposes of the income tax

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(1) 1988 c. 1; section 273 was amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 10. Amendments to section 273 made by the Finance Act 2004 (c. 12), section 281 and Schedule 35 do not come into force until 6th April 2006. Section 619 was amended by the Finance Act 1989 (c. 26), section 170 and the Finance Act 1996 (c. 8), section 135 and Schedule 21. Section 639 was amended by the Finance Act 2000 (c. 17), Schedule 13. Sections 619 and 639 are repealed by the Finance Act 2004, section 326 and Schedule 42 with effect from 6th April 2006 subject to the transitional provisions and savings in Schedule 36 to the Finance Act 2004.

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 from 1 to 7 and 9 of Schedule 1 into which an eligible student falls is paragraph 7 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 1 of Schedule 1, his or her income is not disregarded in accordance with sub-paragraph (1) but is instead disregarded to the extent necessary to ensure that he or she is treated no less favourably than a person who is referred to in any paragraph of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

(3) Where the eligible student receives income in a currency other than sterling, the value of that income for the purpose of this paragraph is —

- (a) if the student purchases sterling with the income, the amount of sterling the student so receives;
- (b) otherwise, the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics<sup>(1)</sup>.

### **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 enactment or rule of law under which payments which would otherwise under United Kingdom law form part of a person's income are not treated as such; or
- (c) under sub-paragraph (2).

are not made or permitted.

(2) For the purposes of determining the residual income of an eligible student's parent, there shall be deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs —

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(1) "Financial Statistics" (ISSN 0015-203X).

- (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, 619 or 639 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, 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 sub-paragraph (a), 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, £1,025.

(3) Where the National Assembly is satisfied that the income of the parent in the financial year beginning immediately before the relevant year ("the current financial year") is, as a result of some event beyond his or her control, likely to be not more than 85 per cent. of the sterling value of his or her income in the preceding financial year it may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the household income for the current financial year.

(4) Where the National Assembly is satisfied that the income of the parent in any financial year is, as a result of some event beyond his or her control, likely to be and to continue after that year to be not more than 85 per cent. of the sterling value of his or her 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 or her residual income for each of the financial years in which that academic year falls.

(5) Where the eligible student's parent satisfies the National Assembly that his or her income is wholly or mainly derived from the profits of a business or profession carried on by him or her, 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 or she is not resident, ordinarily resident or domiciled in the United Kingdom, or where his or her 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 or her taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of his or her 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 National Assembly determines that the parents do not ordinarily live together throughout the relevant year, the household income is determined by reference to the income of whichever parent the National Assembly considers the more appropriate under the circumstances.

(10) Where the National Assembly determines that the parents do not ordinarily live together for part only 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 for which the parents do not so live together; and
- (b) the appropriate proportion of the household income determined otherwise in respect of the remainder of the relevant year.

#### **Calculation of eligible student's partner's residual income**

6.—(1) Subject to sub-paragraphs (2), (3) and (4) of this paragraph and with the exception of sub-paragraphs (8), (9) and (10) of paragraph 5, an eligible student's partner's income is determined in accordance with paragraph 5, references to the parent being construed as references to the eligible student's partner.

(2) Where the National Assembly determines that the eligible student and his or her partner do not ordinarily live together throughout the relevant year, the partner's income is not taken into account in determining the household income.

(3) Where the National Assembly determines that the eligible student and his or her partner do not ordinarily live together for part only of the relevant year, the partner's income is determined by reference to his or her income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the National Assembly determines that the eligible student and his or her partner ordinarily live together.

(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**

**8.**—(1) In relation to an eligible student to whom regulations 10 and 11 apply who is not an independent eligible student and in relation to an independent eligible student to whom regulations 10 and 11 apply who has a partner, the contribution payable is, —

- (a) in any case where the household income is £22,010 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £22,010; and
- (b) in any case where the household income is less than £22,010, nil.

(2) In relation to an independent eligible student to whom regulations 10 and 11 apply who does not have a partner, the contribution is, —

- (a) in any case where the household income is £10,250 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £10,250; and
- (b) in any case where the household income is less than £10,250, nil.

(3) In relation to an eligible student to whom regulations 10 and 11 do not apply the contribution payable is, —

- (a) in any case where the household income is £22,010 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £22,010; and
- (b) in any case where the household income is less than £22,010, nil.

(4) The amount of the contribution payable under sub-paragraph (1), (2) (3) must in no case exceed £7,250.

(5) Where sub-paragraph (6) applies, the aggregate contributions must not exceed —

- (a) £7,250; or
- (b) the contribution which would have been payable if only one eligible student held an award.

(6) This sub-paragraph applies where a contribution is payable in relation to —

- (a) two or more eligible 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) two or more independent eligible students each with a partner in respect of the same household income.

### Split contributions

9.—(1) Where a contribution is payable under paragraph 8 other than in relation to an independent eligible student who does not have 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 sub-paragraph (b) is held by —
  - (i) more than one child of the eligible student's parents;
  - (ii) the eligible student's parent; or
  - (iii) 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 as the National Assembly after consultation with any other authority involved considers just taking into account the application of paragraph 7 of this Schedule to new eligible students and existing students respectively;

- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (Mandatory Awards) Regulations 2003(1) or section 63 of the Health Services and Public Health Act 1968 (2) (and no other statutory award) is held by more than one child of the eligible student's

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(1) S.I.2003/1994, amended by S.I. 2004/1038 and S.I. 2004/1792.  
(2) 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, the Local Government Reorganisation (Wales) (Consequential Amendments No. 2) Order 1996 (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 Social Care Professions Act 2002 (c. 17), Schedules 2, 5 and 9, the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc Provisions) Regulations 2002 (S.I. 2002/2469), Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedules 4, 11 and 14, the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. 2004/288), article 7, the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004 (S.I. 2004/480), article 6 and the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), the Schedule.

parents, the contribution payable in respect of the eligible student is an amount equal to the contribution calculated under paragraph 8 divided by the number of children of his or her parents who hold a relevant statutory award;

- (c) if, as a result of the apportionment under sub-paragraph (b), any part of the contribution calculated under paragraph 8 would not be applied 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.

(2) In any case 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 or her partner; and
- (c) the amount payable in relation to each eligible student is not equal to the amount payable in respect of every other eligible student,

the contribution in respect of each eligible student is calculated under sub-paragraph (3).

(3) Where sub-paragraph (2) applies, the contribution payable in respect of each relevant household is calculated and the apportionment carried out in accordance with sub-paragraph (1) of this paragraph withholding only that part of the contribution apportioned to each eligible student who is not part of the relevant household.

(4) In a case 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) the contribution in respect of each 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 each eligible student a further contribution of £1 for every complete £9.50 by which the sum calculated under sub-paragraph (c) exceeds £22,010;
- (c) the sum referred to in sub-paragraph (b) is the aggregate of any amounts calculated under paragraphs 4, 5 and 7 (where appropriate) of this Schedule with the deduction of the amount (if any) by which the aggregate of the amounts calculated under paragraphs 5 and 7 exceeds £22,010.

(5) Subject to sub-paragraph (6), there is added to a parent student's residual income for the purpose of calculating the contribution to his or her 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 or her children under this paragraph.

(6) Where a parent student has a partner within paragraph 1(j) of this Schedule, the sums added to his or her residual income under sub-paragraph (5) of this paragraph are calculated as though the contribution in respect of his or her 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.

(7) 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.