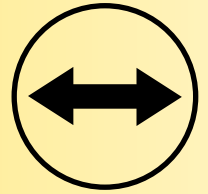


Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007

**Consultation
Document**



Date of Issue: 25 September 2006
Action Required: Responses by 18 December 2006

**Student Finance
Wales**



- Title of document:** Assembly Learning Grants and Loans (Higher Education) Wales Regulations 2007
- Audience:** Local Authorities; Higher Education Institutions; Further Education Institutions; National Union of Students; Student Loans Company; other interested parties.
- Overview:** This consultation seeks views on the draft Assembly Learning Grants and Loans (Higher Education) Wales Regulations 2007.
- Action required:** Any comments which consultees might have on this document should be sent to the Welsh Assembly Government by **18 December 2006**. Comments can be made in writing to Neil Hayes at the address below. Comments can also be made by email to **studentfinancedivision@wales.gsi.gov.uk**
- Further information:** Further information about this consultation can be obtained from Neil Hayes at the address below or by e-mailing **studentfinancedivision@wales.gsi.gov.uk**
- Additional copies:** This consultation document is available on the internet on **<http://new.wales.gov.uk>** and can be copied from there.
- Postal address:** Student Finance Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ

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Consultation on:

The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007

Summary

To provide the package of student support measures, the Assembly is required to enact the appropriate secondary legislation in the form of Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations for each academic year.

A set of draft Regulations for 2007 is attached at Annex A and is also available from the Assembly's Education and Skills, Consultations website at <http://new.wales.gov.uk>. The aim of these Regulations is to enable the Assembly to provide support for students ordinarily resident in Wales taking designated higher education courses for the academic year beginning 1 September 2007.

As part of general public consultation, I am writing to seek your views on the proposed Regulations and in particular the following proposed changes:

- to the 2007 Regulations (details enclosed at page 3 and available from the Assembly's Education and Skills, Consultations website at <http://new.wales.gov.uk>); and
- to the student finance cycle for AY2008/09 (details enclosed at page 4).

The period of consultation will last for 12 weeks and your response should, therefore, be submitted by **18 December 2006**. You should send your comments to:

Neil Hayes
Policy Changes Team
Student Finance Division
Welsh Assembly Government
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Or by e-mail to: studentfinancedivision@wales.gsi.gov.uk

Unfortunately, the Assembly Government is not in a position to be able to offer a Welsh version of the Regulations at this stage, although a fully bilingual draft will be available by November.

The Regulations may be subject to technical additions during the course of the consultation period, which will be updated on the Learning Wales website. In addition, we will update all on the distribution list. At the end of the consultation period the Regulations will begin their passage through the Assembly for consideration and approval.

Please note that responses may be made available for public inspection in the Assembly library. The Welsh Assembly Government will assume that you do not object to this approach to openness unless notified otherwise. If you reply by e-mail, any confidentiality clause automatically generated by your provider will not be taken into account unless you specifically request confidentiality. Consultation responses may also be included in a statistical summary and a summary of responses may subsequently be published on the Assembly website.

Proforma for responses: a separate consultation response form has been included.

ASSEMBLY LEARNING GRANTS AND LOANS (HIGHER EDUCATION) (WALES) REGULATIONS 2007: CHANGES

Background

1. The Assembly took responsibility for student support and fees from academic year 2006/07 onwards. To provide the package of student support measures, the Assembly is required to enact the appropriate secondary legislation in the form of Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations for each academic year.
2. The draft Assembly Learning Grants and Loans (Wales) Regulations 2007 provide support for students ordinarily resident in Wales taking designated higher education courses in academic year 2007/08.
3. The draft Regulations cover eligibility for support (Part 2 and Schedule 1), 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 13), and support available for postgraduate students with disabilities (Part 14). The Regulations also include provisions covering revocations (Part 1), the designation of courses (Schedule 2) and the provision of information (Part 3 and Schedule 3).

Student Support Changes for 2007/08

4. **Tuition fee grant** - a non-means tested grant of up to £1,845 will be available to all students ordinarily resident in Wales who started or will start studying a higher education course at a Welsh university or college in academic year 2006/07 or 2007/08. This tuition fee grant is available regardless of family income, and is paid directly to the place of study;
5. **Childcare Grant** - extending the categories of qualifying childcare to bring current student support provisions closer in line with the childcare elements of the Working Tax Credits;
6. **Care Leavers Grant** – this has been removed from the 2007 Regulations;
7. **Overseas Rate of Loan** – removing the reference to 8 weeks and aligning the treatment of students studying overseas with those studying in the UK, so that for all students, the rate of loan awarded in respect of each quarter will be related to where they have been studying for the majority of that quarter. This also applies to the travel grant;
8. **Eligibility Criteria** - Tightening of the definition of family members of a refugee or person with “leave to enter or remain” in the UK and when that status must have been held for the purposes of the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007 (the “2007

Regulations”) and the treatment of those who lose their immigration or EEA/Swiss family member status during their HE course;

- **National Insurance Number** - Requirement for students to obtain a national insurance number and consequential information provisions.
- **Uprating for inflation** – applied to all maintenance loans and grants amounts and means-testing thresholds.

Student Support Changes for AY2008/09

9. The change proposal concerns bringing the student finance application cycle into line with the beginning of the UCAS cycle. This will allow prospective students to apply for finance with effect from one year prior to the start of their planned entry into HE. This will, in turn, provide flexibility for students and the student finance information to help make study choices.

10. Any changes to the 2008 Regulations will be subject to further consultation in due course.

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2007 No. (W.)

EDUCATION, WALES

The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for financial support for students who are ordinarily resident in Wales taking designated higher education courses in respect of academic years beginning on or after 1 September 2007. They consolidate, with some changes, the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006, as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2006;

The Regulations revoke those 2006 Regulations and amending Regulations. Regulation 3 sets out the extent of the revocation. Changes of substance made in these Regulations (other than rates of grants and loans) are highlighted below.

The distinction between old system eligible students and new system eligible students (introduced by the 2006 Regulations) in relation to financial support to students for full-time courses is retained (regulation 2(1)).

Old system eligible students are eligible students attending courses that started before 1st September 2006 and gap-year students starting courses before 1 September 2007, and certain other categories of student. The following grants and loans are available to old system eligible subject to the specified conditions –

grant for fees (Part 5);

fee contribution loan (regulation 20);

grant for disabled students' living costs (regulation 24);

grant for dependants (regulations 25 to 30);

grant for travel (regulation 31);
higher education grant (regulation 32); and
loans for living costs (Part 8).

A new system eligible student is an eligible student who starts their course on or after 1 September 2006 and who is not an old system eligible student. The following grants and loans are available to new system eligible students, subject to the specified conditions –

- new fee grants (regulation 18);
- fee loans (regulation 21);
- grant for disabled students' living costs (regulation 24);
- grant for dependants (regulations 25 to 30);
- grant for travel (regulation 31);
- maintenance grant (regulation 33);
- special support grant (regulation 34); and
- loans for living costs (Part 8).

To qualify for financial support a student must be an “eligible student”. Broadly, a person is an eligible student if he or she falls within one of the categories listed in Part 2 of Schedule 1 and the eligibility provisions in Part 2 of the Regulations. The Regulations apply to students ordinarily resident in Wales wherever they study on a designated course. For the purposes of these Regulations a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland, the Channel Islands or the Isle of Man as a result of having moved from one of those areas for the purpose of undertaking his or her course is considered ordinarily resident in the place from which that person moved (Schedule 1, paragraph 1(3)). An eligible student must also satisfy any requirements elsewhere in the Regulations; in particular the specific requirements applicable to each type of financial support. As to the “new” fee grants for new system eligible students referred to in the list above see below.

Support is only available under the regulations in respect of “designated” courses within the meaning of regulations 5, 56 and Schedule 2.

[The rules on previous study are unchanged (regulations 6 and 7). In general, students starting courses on or after 1 September 2006 are eligible for fee support and maintenance grants for the ordinary length of their course plus one additional year. The number of years of support available is reduced by the number of years of previously supported higher education. For students who started their course before 1 September 2006 support will be available for the ordinary length of

their course. The National Assembly for Wales will be able to extend eligibility where there are compelling personal reasons for doing so in respect of the student concerned. Maintenance loans are available throughout the period of eligibility, which terminates at the end of the academic year in which the student completes the designated course. Students attending courses for the initial training of teachers lasting less than two years are exempt from the previous study rules.]

Students who have an honours degree qualification from a higher education institution in the UK will not ordinarily be eligible for support under the regulations, but students undertaking a second degree course which leads to professional qualification as a social worker, medical doctor, dentist, veterinary doctor, architect, landscape architect, landscape designer, town planner or town and country planner will still be eligible for a maintenance loan.

Part 3 of the Regulations makes provision for applications for support (regulation 9), time limits for applications (regulation 10) and regulation 11 and Schedule 3 specify the information that must be provided by applicants.

Part 4 of the Regulations makes provision for students who become eligible during the course of an academic year to qualify for support under Parts 5 and 6.

Part 5 of the Regulations makes provision for grant for fees. From 2007, a new (increased) grant for fees is introduced for new system eligible students (regulation 18). Students who are UK nationals must have been ordinarily resident in Wales for three years prior to the start of the course, but this does not apply to nationals of other EEA states. The grant applies only to students who start courses at publicly-funded institutions in Wales on or after 1 September 2007. A smaller fee grant continues to be available to old system eligible students.

Part 6 makes provision for loans for fees. Regulation 22 introduces a new smaller loan for fees for those students who qualify for the new (increased) fee grant. The maximum loan is £1,225 or £612 in the circumstances specified in regulation 16(2). Regulation 20 continues to provide for fee contribution loans not exceeding £1225 per academic year for old system eligible students in respect of their attendance on designated courses. The limit is £612 in the circumstances specified in regulations 16(2). Regulation 21 continues to provide for a fee loan up to maximum of £3,070 per academic year for new system eligible students who do not qualify for the new fee grant in respect of fees payable by them in respect of their attendance on designated courses. The limit is £1535 in the circumstances specified in regulation 16(2).

Part 7 makes provision for grants for living costs. The means-tested maintenance and special support grants introduced by the 2006 Regulations are continued. The special grant for students leaving care is no longer available. The grant for childcare is now available for any form of childcare that counts as childcare for tax credits purposes under regulations made under the Tax Credits Act 2002 (including, in particular, childcare in Scotland and Northern Ireland).

Parts 8 and Part 9 make provision for loans for living costs. New system eligible students eligible for a maintenance grant will continue to be eligible for a maintenance loan and up to £1,225 of the grant is paid in substitution for an element of the student loan. Maintenance loan entitlement will continue to be reduced by £1 for every £1 of grant payable up to a maximum of £1,225. One small piece of rationalisation is that a student who attends an overseas institution will be in “category 3” for the purpose of calculating entitlements irrespective of whether attendance was for at least 8 weeks over the academic year (but the rule that a student cannot be in that category in any quarter in which he or she attends such an institution for less than half the period covered by that quarter remains): see regulations 46(1)(c) and 42(2).

Part 10 and Schedule 4 continue to make provision for “college fee loans” (introduced by the 2006 amending Regulations). These are loans in respect of the college fees payable by a qualifying student to a college or permanent private hall of the University of Oxford or to a college of the University of Cambridge in connection with attendance of a qualifying student on a qualifying course.

Part 11 and Schedule 5 continue to make provision for the means-testing of students taking designated full-time courses. A contribution from the student is calculated on the basis of household income. The contribution is to be applied to specified grants and loans until it is extinguished against the amount of the particular grants and loans for which the student qualifies.

Part 12 makes provision for payment of grants and loans.

Part 13 makes provision for support for part-time courses.

Part 14 makes provision for postgraduate students with disabilities.

2007 No. (W.)

EDUCATION, WALES

**The Assembly Learning Grants and
Loans (Higher Education) (Wales)
Regulations 2007**

Made 2007

Coming into force 2007

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PART 1
ELIGIBLE STUDENTS

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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⁽¹⁾, 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 2007.

(2) These Regulations come into force on 1 April 2007 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires —

“the 1962 Act” (“*Deddf 1962*”) means the Education Act 1962⁽²⁾;

“the 1998 Regulations” (“*Rheoliadau 1998*”) means the Education (Student Support) Regulations 1998⁽³⁾;

-
- (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 (Higher Education Act 2004 (Commencement No. 2 and Transitional Provision) (Wales) Order 2005 (S.I. 2005/1833 (W.149)(c.79)).
- (2) 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.
- (3) S.I. 1998/2003.

“the 1999 Regulations” (“*Rheoliadau 1999*”) means the Education (Student Support) Regulations 1999**(1)**;

“the 2000 Regulations” (“*Rheoliadau 2000*”) means the Education (Student Support) Regulations 2000**(2)**;

“the 2001 Regulations” (“*Rheoliadau 2001*”) means the Education (Student Support) Regulations 2001**(3)**;

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Education (Student Support) Regulations 2002**(4)**;

“the 2003 Regulations” (“*Rheoliadau 2003*”) means the Education (Student Support) (No. 2) Regulations 2002**(5)** as amended only by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2003**(6)** and the Education (Student Fees and Support) (Switzerland) Regulations 2003**(7)**;

“the 2004 Regulations” (“*Rheoliadau 2004*”) means the 2003 Regulations as amended by the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2004**(8)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 2) Regulations 2004**(9)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 3) Regulations 2004**(10)**, the Education (Student Support) (No. 2) Regulations 2002 (Amendment) (No. 4) Regulations 2004**(11)** and the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005**(12)**;

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the Education (Student Support) Regulations 2005**(13)** as amended by the Education (Student Support) (Amendment) Regulations 2005, the Education (Student Support) (Amendment) (No. 2) Regulations 2005, the Adoption and Children (Miscellaneous Amendments) Regulations 2005**(14)**

(1) S.I. 1999/496, amended by S.I. 1999/2266 and S.I. 2000/1120.

(2) S.I. 2000/1121, amended by S.I. 2000/1490, S.I. 2000/2142 and S.I. 2000/2912.

(3) S.I. 2001/951, amended by S.I. 2001/1730, S.I. 2001/2355 and S.I. 2002/174.

(4) S.I. 2002/195, amended by S.I. 2002/1318, S.I. 2002/2088 and S.I. 2002/3059.

(5) S.I. 2002/3200.

(6) S.I. 2003/1065.

(7) S.I. 2003/3280.

(8) S.I. 2004/161.

(9) S.I. 2004/1602.

(10) S.I. 2004/2041.

(11) S.I. 2004/2598.

(12) S.I. 2005/5.

(13) S.I. 2005/52 as amended by S.I. 2005/1341 and S.I. 2005/2084.

(14) S.I. 2005/3482.

and the Education (Student Support) (Amendment) Regulations 2006⁽¹⁾.

“the 2006 Regulations” (“*Rheoliadau 2006*”) means the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006⁽²⁾ as amended by the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 2006⁽³⁾;

“academic authority” (“*awdurdod academaidd*”) 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” (“*blwyddyn academaidd*”) 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” (“*cwrs carlam*”) 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” (“*Y Ddeddf*”) means the Teaching and Higher Education Act 1998;

“borrower” (“*benthyciwr*”) means a person to whom a loan has been made;

“College fee loan” means a loan pursuant to regulations made by the National Assembly under section 22 of the Act in respect of the college fees payable by a student to a college or permanent private hall of the University of Oxford or to a college of the University of Cambridge;

“contribution” (“*cyfraniad*”) means an eligible student’s contribution calculated pursuant to regulation 50 and Schedule 5;

“course for the initial training of teachers” (“*cwrs ar gyfer hyfforddiant cychwynnol athrawon*”) includes such a course leading to a first degree unless otherwise specified and excludes an employment-based teacher training scheme;

“designated course” (“*cwrs dynodedig*”) means a course designated by regulation 5 or by the National Assembly under regulation 5;

(1) S.I.2006/955.

(2) S.I. 2006/126 (W.19).

(3) S.I. 2006/ 1863 (W.196) .

“designated part-time course” (“*cwrs rhan amser dynodedig*”) means a course designated by regulation 56 or by the National Assembly under regulation 56;

“designated postgraduate course” (“*cwrs ôl-raddedig dynodedig*”) means a course designated by regulation 68 or by the National Assembly under regulation 68;

“electronic signature” (“*llofnod electronig*”) 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” (“*myfyriwr rhan-amser cymwys*”) has the meaning given in regulation 55;

“eligible postgraduate student” (“*myfyriwr ôl-raddedig cymwys*”) has the meaning given in regulation 67;

“eligible student” (“*myfyriwr cymys*”) has the meaning given in regulation 4;

“employment-based teacher training scheme” (“*cynllun hyfforddi athrawon ar sail cyflogaeth*”) 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” (“*cwrs pen-ben*”) means —

- (a) a full-time first degree course (other than a first degree course for the initial training of teachers) which, disregarding any intervening vacation, a student begins 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, 2005 or 2006 Regulations;
- (b) a full-time honours degree course beginning on or after 1 September 2006 which, disregarding any intervening vacation, a

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

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, 2005 or 2006 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 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” (“*Y Gymuned Ewropeaidd*”) means the territory comprised by the Member States of the European Community as constituted from time to time;

“fees” has the meaning given in section 41(1) of the Higher Education Act 2004 except in the case of college fees;

“flexible postgraduate ITT course” (“*cwrs HCA hyblyg i ôl-raddedigion*”) 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” (“*cyn ardal yr Heddlu Metropolitanaidd*”) 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,

(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.

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;

“grant for living costs” (without more) means a grant under any of the provisions of Part 7 of these Regulations;

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

“higher education course” (*“cwrs addysg uwch”*) 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” (*“incwm yr aelwyd, incwm aelwyd ac incwm sydd gan yr aelwyd”*) has the meaning given in Schedule 5;

“Islands” (*“Ynysoedd”*) means the Channel Islands and the Isle of Man;

“loan”(*“benthyciad”*), except where otherwise indicated, means a loan pursuant to any regulations made under section 22 of the Act, including the

(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 Health 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).

interest accrued on the loan and any penalties or charges incurred in connection with it;

“loan for living costs” means a loan under Part 8 of these Regulations;

“maintained school” (“*ysgol a gynhelir*”) means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“new fee grant” means a grant under regulation 18;

“new system eligible student” (“*myfyriwr cymwys dan y drefn newydd*”) means —

- (a) an eligible student who starts the present course on or after 1 September 2006 and is continuing on that course after 31 August 2007; and who is not an old system eligible student; or
- (b) an eligible student who starts the present course on or after 1 September 2007.

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

“old system eligible student” (“*myfyrwr cymwys dan yr hen drefn*”) means an eligible student who —

- (a) started the present course before 1 September 2006 and who is continuing on that course after 31 August 2007,
- (b) is a gap-year student in relation to the present course,
- (c) started the present course on or after 1 September 2006 where that course is an end-on course in relation to a course that
 - (i) he or she started before 1 September 2006 or,
 - (ii) in the case of a gap-year student, before 1 September 2007, or
- (d) started the present 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
 - (i) before 1 September 2006 or,
 - (ii) in the case of a gap-year student, before 1 September 2007 and

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

in connection with which the National Assembly determined him or her to be an eligible student;

“periods of work experience” (*“cyfnodau o brofiad gwaith”*) 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” (*“cwrs presennol”*) means the designated course in respect of which a person is applying for support;

“private institution” (*“sefydliad preifat”*) means an institution which is not publicly funded;

“public funds” (*“cronfeydd cyhoeddus”*) means moneys provided by Parliament including funds provided by the National Assembly for Wales;

“publicly-funded” (*“a ariennir yn gyhoeddus”*) means maintained or assisted by recurrent grants out of public funds, and related expressions are to be interpreted accordingly;

“qualified teacher” (*“athro neu athrawes gymwysiedig”*) has the meaning given in section 132(1) of the Education Act 2002⁽¹⁾;

“quarter” (*“chwarter”*) 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” (*“ffoadur”*) 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⁽²⁾ as extended by the Protocol thereto which entered into force on 4

(1) 2002 c. 32.

(2) Cmnd. 9171.

October 1967⁽¹⁾ and any reference to the child of a refugee includes a reference to a step-child;

“Research Council” (“*Cyngor Ymchwil*”) 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” (“*cwrs rhyngosod*”) has the meaning given in paragraph (2);

“Scottish healthcare allowance” (“*lwfans gofal iechyd yr Alban*”) means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980⁽²⁾ 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” (“*dyfarniad statudol*”) 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 other support in respect of undertaking a course which is paid out of public funds;

“student loan account number” (“*rhif cyfrif benthyciad myfyiwr*”) means the account number assigned by the lender to a loan made under the student loans legislation;

“student loans legislation” (“*y ddeddfwriaeth ar fenthyciadau i fyfyrwyr*”) means the Education (Student Loans) Act 1990⁽³⁾, the Education (Student Loans) (Northern Ireland) Order 1990⁽⁴⁾, the Education (Scotland) Act 1980 and regulations made thereunder, the Education (Student Support)

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- (1) 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).
 - (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).
 - (3) 1990 c. 6; repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4.
 - (4) 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.

(Northern Ireland) Order 1998⁽¹⁾ and regulations made thereunder or the Act and regulations made thereunder;

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

“transitional award” (“*dyfarniad trosiannol*”) means an award made under the Education (Mandatory Awards) Regulations 1998⁽²⁾ other than an old award;

“type 1 teacher training student” (“*myfyriwr math 1 ar gwrs hyfforddi athrawon*”) means a new system eligible 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” (“*myfyriwr math 2 ar gwrs hyfforddi athrawon*”) means a new system eligible 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) 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

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

(2) S.I. 1998/1166, amended by S.I. 1998/1972.

number of weeks of full-time study in each year.

(3) Except in the case of regulation 31 (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.

(4) In these Regulations a “gap-year student” means an eligible student to whom paragraph (5) or (6) applies and who starts a designated course (“the present course”) on or after 1 September 2006.

(5) 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 on or after 1 September 2006 but before 1 September 2007.

(6) 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 began after 31 August 2006 but before 1 September 2007.

(7) For the purpose of paragraph (5)(a) a course (“the original course”) is similar to the present course if —

- (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.

(8) In these Regulations, the “specified designated course” means the present course subject to paragraphs (9) and (10).

(9) 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.

(10) Where the present course is an end-on course, the specified designated course is the course in relation to which the present 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.

(11) In these Regulations, the expression “student who qualifies for a new fee grant”, in relation to a qualifying designated course, and any reference to a student who does not qualify for a new fee grant are to be construed in accordance with regulation 18.

(12) In these Regulations, the expression “qualifying designated course”, in relation to a student who qualifies for a new fee grant, has the meaning given to it by regulation 18.

Revocation, savings and transitional provisions

3.—(1) Subject to paragraphs (2) to (5), the following regulations are revoked in relation to Wales on 1 September 2007 —

- (a) the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006; and
- (b) the Assembly Learning Grants and Loans (Higher Education) (Wales) (Amendment) Regulations 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) The 2006 regulations continue to apply to the provision of support to students in relation to an

academic year which begins on or after 1 September 2006 but before 1 September 2007.

(6) For the purposes of paragraphs (2) to (4), any reference to the Secretary of State in relation to any function conferred on the Secretary of State by the Regulations referred to in those paragraphs, is to be read in relation to Wales as a reference to —

- (a) the National Assembly, in the case of a function referred to in section 44(1) of the Act; or
- (b) the National Assembly or the Secretary of State, in the case of a function referred to in section 44(2) of the Act.

(7) 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 2007 whether anything done under these Regulations is done before, on or after 1 September 2007.

(8) Despite 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 old system eligible student for the purposes of Parts 5, 6 and 7 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 (9) applies he or she qualifies for support by way of loan under Part 8 only if he or she is an eligible student under these regulations and if he or she satisfies the qualifying conditions for support under that Part .

(9) Despite any other provision in these Regulations, where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations he or she is an old system eligible student for the purposes of Part 8 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 (8) applies he or she qualifies for support by way of grant under Parts 5 and 7 only if he or she is an eligible student under these Regulations and if he or she satisfies the relevant qualifying conditions for support under Parts 5, 6 and 7.

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 Part 2 of Schedule 1; and
- (b) the person is not excluded by paragraph (3).

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

- (a) an old 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

(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 does 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) Despite paragraph (3), a person is an eligible student for the purposes of these Regulations if he or she satisfies the conditions in paragraph (8), (9) or (10).

(8) The conditions in this paragraph are —

- (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;
- (b) the person was ordinarily resident in Wales on the first day of the first academic year of the present course; and
- (c) that status has not expired or been terminated.

(9) The conditions in this paragraph are —

- (a) the present course is an end-on course which the person is starting on or after 1st September 2006;
- (b) the person qualified as an eligible student in connection with the course in relation to which the present course is an end-on course;
- (c) the period of eligibility in respect of the course in sub-paragraph (b) only ceased on the grounds that the student had completed the course; and
- (d) the person was ordinarily resident in Wales on the first day of the first academic year of the course in sub-paragraph (b).

(10) The conditions in this paragraph are —

- (a) 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,*
- (b) the person's status as an eligible part-time student or as an eligible student in connection with the course in sub-paragraph (a) 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;

- (c) the person was ordinarily resident in Wales on the first day of the first academic year of the course in sub-paragraph (a); and
- (d) the person's status as an eligible student has not terminated.

(11) A person who the National Assembly is satisfied fell within paragraph 4 or 5 of Part 2 of Schedule 1 to the 2006 Regulations immediately before the coming into force of these Regulations and is not excluded by paragraph (3) above, is an eligible student in connection with a designated course (within the meaning of these Regulations), even though he or she does not fall within the equivalent provision contained in paragraph 4 or 5 of Part 2 of Schedule 1 to these Regulations.

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 even though —

- (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” terminates at the end of the academic year in which the student completes the designated course.

(3) Despite paragraph (1), a new system eligible student or gap-year student who has not attended a previous course is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to **OD+R+1**.

(4) Despite paragraph (1) and subject to paragraph (6), a new system eligible student or gap-year student who has attended a previous course is only eligible for grants or loans for fees and grants for living costs in respect of the present course for the number of academic years equal to **(OD+R+1)-PC**, except that-

- (a) no deduction equivalent to **PC** applies in the case of a teacher training student; and
- (b) one additional year is added in the case of an eligible student who did not complete successfully the latest previous course because of compelling personal reasons.

(5) Paragraph (6) applies to —

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

- (a) a new system eligible student who is on an end-on course of the kind described in paragraph (a) or (b) of the definition of “end-on course” in regulation 2;
- (b) a new system eligible student who has —
 - (i) completed a full-time course mentioned in paragraph 2 or 3 of Schedule 2;
 - (ii) is on a full-time first degree course (other than a first degree course for the initial training of teachers) that he or she did not begin immediately after the course referred to in paragraph (i); and
 - (iii) has not take a full-time first degree course after the course referred to in paragraph (i) and before the present course;
- (c) a new system eligible student who has —
 - (i) completed a full-time foundation degree course;
 - (ii) is on a full-time honours degree course that he or she did not begin immediately after the course referred to in paragraph (i) and before the present course; and
 - (iii) has not taken a full-time first degree course after the course referred to in paragraph (i) and before the present course; and
- (d) an old system eligible student who is a student on an end-on course of the kind described in paragraphs (a) and (b) of the definition of “end-on course” in regulation 2.

(6) Despite paragraph (1), an eligible student to whom this paragraph applies is only eligible for grants or loans for fees and grants for living costs in respect of the present course for the number of academic years equal to **(D + X) – Pr C**.

(7) Despite paragraph (1), a continuing student is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to **(A+R+1)-Y**.

(8) Despite paragraph (1) and subject to paragraph (9), a transferring student is only eligible for a grant or loan for fees or a grant for living costs in respect of the present course for the number of academic years equal to **(A+R+1)-Y**.

(9) A transferring student starting the first full academic year of a further course to which he or she transfers under regulation 8 after 1 September 2006 is only eligible for a grant or loan for fees or a grant for living costs in respect of the further course for the number of years equal to **(A+R+1)-Y-Z**.

(10) In any case where the number of academic years for which a grant or loan for fees or a grant for living costs is available in accordance with this regulation is

less than the number of academic years that make up the period ordinarily required for the completion of the present course, the academic years in which he or she is eligible for a grant or loan for fees or a grant for living costs are the latest years of the present course.

(11) In this regulation —

- (a) **A** is the number of academic years from [31 August 2006] that make up the period ordinarily required for the completion of the present course or, in the case of a transferring student, the previous course;
- (b) **D** is the greater of 3 and a number of academic years that make up the ordinary duration of the course;
- (c) **OD** is number of academic years that make up the period ordinarily required for the completion of the present course;
- (d) **PC** is the number of years of attendance by the eligible student on a previous course; and
- (e) **X** is 1 where the ordinary duration of the preliminary course was less than three years and where the ordinary duration of the preliminary course was three years;
- (f) **R** is the number of repeated academic years on the present course starting on or after [1 September 2006] that are repeats of preceding academic years that the eligible student was unable to complete successfully because of compelling personal reasons;
- (g) **PrC** is the number of academic years that the student spent on the preliminary course excluding any years of repeat study for compelling personal reason;
- (h) **Y** is the number of years of the present course, or the previous course in the case of a transferring student, in respect of which it has been determined before [1 September 2006] under regulations made under section 22 of the Act that support was not available;
- (i) **Z** is the number of academic years spent on a previous course beginning on or after [1 September 2006];
- (j) “continuing student” is an old system eligible student who started the present course before [1 September 2006];
- (k) “teacher training student” means a 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 in its full-time equivalent) and the student is not a qualified teacher;

(1) “transferring student” means an eligible student who starts the present 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 pursuant to regulations made under section 22 of the Act from a designated course which he or she began before [1 September 2006].

(12) In calculating the number of years for the purpose of this regulation, attendance for part of an academic year is treated as a whole academic year

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

(14) The National Assembly may confer eligibility to grants and loans for fees and grants for living costs otherwise than in accordance with paragraphs (3) to (11).

(15) 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 63(1); or
- (b) abandons, or is expelled from, the student’s designated course.

(16) 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.

(17) 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 54.

(18) In the case of an eligible student who is a refugee or a person with leave to enter or remain (within the meaning of Part 1 of Schedule 1), that person’s period of eligibility terminates if his or her leave to enter or remain has been revoked (and any appeal against such revocation has been dismissed or is out of time).

Previous study

7.—(1) Subject to paragraphs (3) and (4), 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.

(2) Subject to paragraphs (4) and (5), 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) Paragraph (1) does not apply to an eligible student attending a course for the initial training of teachers where the ordinary duration of the course does not exceed 2 years (the ordinary duration of a part-time course being expressed as its full-time equivalent) and the eligible student is not a qualified teacher.

(4) Where the present course is considered to be a single course because of regulations 5(4) and 5(5) and it leads to an honours degree from an institution in the United Kingdom being conferred on the eligible student before the final degree or equivalent qualifications, the eligible student is not prevented from qualifying for support under paragraph (1) or (2) in respect of any part of the single course by virtue of having that honours degree.

(5) Paragraph (2) does not apply where —

- (a) the designated course leads to qualification as a social worker;
- (b) the eligible student is to receive any payment under a healthcare bursary the amount of which is calculated by reference to his or her income or a Scottish healthcare allowance the amount of which is calculated by reference to his or her income in respect of any academic year of the course; or
- (c) the student is on a course for the initial training of teachers.

(6) 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 (7).

(7) The conditions referred to in paragraph (6) 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.

(8) Paragraphs (7) and (8) of regulation 21 extend the provisions of this regulation relating to qualification for fee loans and fee grants to the grants for living costs referred to in those paragraphs, subject to specified exceptions.

(9) In this regulation and regulation 6, the “ordinary duration of the course” means the number of academic years that a standard student would take to complete the designated course and “standard student” means a student who is to be taken —

- (i) to have started the designated course on the same date as the eligible student in question;
- (ii) not to be excused any part of the course on account of having attended another course;
- (iii) not to repeat any part of the course; and
- (iv) not to be absent from the course other than during vacations.

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) one of the events listed in relation 14 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the National Assembly within a period of nine months beginning with the day on which the relevant event occurs.

- (b) the applicant is making a separate application for a loan for living costs under regulation 35 or an additional amount of loan under regulation 47(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;
- (c) the applicant is applying to borrow an additional amount of loan under regulation 47(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;
- (d) the applicant is applying for a grant under regulation 24, in which case the application must reach the National Assembly as soon as is reasonably practicable;
- (e) 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.

Requirements as to the provision of information and other matters

11.—(1) Schedule 3 applies to the provision of information.

(2) In addition to any requirement imposed on him or her under paragraph 1 of Schedule 3 to provide information referred to in that Schedule, an eligible student applying for, or in receipt of, a loan must comply with any requirement imposed on him or her under the following paragraphs.

(3) Subject to paragraph (4), every applicant for a loan must enter into a contract with the National Assembly [(on the Assembly's usual terms)].

(4) A person referred to in paragraph (2) must, if requested to do so at any time by the National Assembly, enter into an agreement with the Assembly to repay a loan by a particular method, and the Assembly may withhold any payment of a loan pending compliance with such a request.

(5) A person referred to in paragraph (2) must, on request, provide the National Assembly with —

- (a) any information which the National Assembly considers it requires to recover a loan;

- (b) his or her United Kingdom National Insurance number;
- (c) sight of his or her valid national identity card;
- (d) sight of his or her valid passport issued by the state of which he or she is a national;
- (e) sight of his or her birth certificate.

and the National Assembly may withhold any payment of a loan pending compliance with its request or a sufficient explanation for any non-compliance.

(6) The National Assembly may at any time verify with the Department for Work and Pensions any United Kingdom National Insurance number provided to it (under paragraph (5)(b) or otherwise), or may check with that Department whether a person referred to in paragraph (2) has such a number with a view to obtaining it.

PART 4

APPLYING FOR GRANTS AND LOANS FOR FEES

Fee Support Generally

12. Support under Parts 5 and 6 in respect of an academic year may not exceed the fees payable by the student in respect of that academic year.

Students becoming eligible during the course of an academic year

13. Where any of the events listed in regulation 14 occurs in the course of an academic year —

- (a) a student may qualify for grants and loans under Part 5 or 6 provided that the relevant event occurred within the first three months of the academic year; and
- (b) such grants and loans are not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

Events

14. The events are —

- (a) the student's course becomes a designated course;
- (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 1);

- (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (e) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (g) the student becomes the child of a Swiss national.

PART 5

GRANTS FOR FEES

Grants for fees: Qualifying conditions for old system eligible students

15.—(1) Subject to regulations 6 and 7, an old system eligible student qualifies in accordance with this regulation for a grant in respect of the fees⁽¹⁾ for an academic year payable by the student in respect of, or otherwise in connection with, the student's attendance on a designated course .

(2) The amount of the grant for fees in respect of an academic year is determined in accordance with regulation 16 or 17.

(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⁽²⁾ and —

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

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

- (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.

Amount of grants for fees at a publicly funded institution: old system eligible students

16.—(1) Subject to the following paragraphs, the amount of the grant for fees for an old system eligible student in respect of an academic year of a designated course at a publicly-funded institution is £1,225.

(2) Subject to paragraphs (3) to (5) the amount of the grant for fees for an old system eligible student in respect of an academic year is £612 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-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) In the case of a designated course at Guildhall School of Music and Drama, the amount of grant for fees in respect of an academic year is £4,355.

(5) A deduction may be made from the grant for fees determined under paragraph (1) or (2) in accordance with regulation 51.

Amount of the grant for fees for a course at a private institution: Old system eligible students

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

(2) Subject to paragraphs (4) and (5), the amount of the grant for fees for an old system eligible student in respect of an academic year of a designated course at a private institution is £1,225 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 16(2) applies.

(3) Subject to paragraphs (4) and (5), the amount of the grant for fees in respect of an academic year at a private institution is £612 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 16(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) A deduction may be made from the grant for fees in accordance with regulation 51.

New fee grants

18.—(1) Subject to paragraph (2), a student who qualifies for a new fee grant may apply under this regulation for a new fee grant of an amount not exceeding the maximum available (in accordance with paragraph (3) or (4), as the case may be) in respect of, or otherwise in connection with, his or her attendance on a qualifying designated course.

(2) A new fee grant is not available in respect of an academic year if —

- (a) in relation to that year the student 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.

(3) The maximum amount of grant available under this regulation to an applicant in respect of an academic year of a qualifying designated course where none of the circumstances in regulation 16(2) applies is £1,845 or the amount by which the fees payable by him or her exceed £1,225, whichever is the lesser.

(4) The maximum amount of grant available in respect of such an academic year under this regulation to an applicant where one of the circumstances in regulation 16(2) applies is £922 or the amount by which the fees payable by him or her exceed £612, whichever is the lesser.

(5) In [these Regulations], “student who qualifies for a new fee grant”, in relation to a qualifying designated course, means a new system eligible student who is either an EEA national (as defined in Part 1 of Schedule 1) or a student to whom paragraph (6) applies, and any reference [in these Regulations] to a student who does

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

not qualify for a new fee grant has a corresponding meaning.

(6) This paragraph applies to a person who -

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course ;
- (b) has been ordinarily resident in Wales throughout the three-year period preceding the first day of the first academic year of the course ; and
- (c) whose ordinary residence in Wales referred to in sub-paragraph (b) was not, during any part of the three-year period, wholly or mainly for the purpose of receiving full-time education.

(7) In [these Regulations], “qualifying designated course”, in relation to a student who qualifies for a new fee grant, means a designated course provided by a publicly-funded institution in Wales which the student starts to attend in an academic year beginning on or after 1 September 2007.

PART 6

LOANS FOR FEES

General qualifying conditions for loans for fees

19.—(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, regulation 6 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 —

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

- (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.

Fee contribution loans (for old system eligible students)

20.—(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 51.

(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 £1,225 or, if any of the circumstances in regulation 16(2) apply, £612.

(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: New system eligible students not qualifying for new fees grant

21.—(1) Subject to paragraph (9), 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) £3,070 or, where one of the circumstances in paragraph (3) applies, £1,535; 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 £1,535 in the cases specified in regulation 16(2).

(4) If the student's status as an eligible student is transferred from 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 does not begin 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) £3,075 or, where one of the circumstances in regulation 16(2) applies, £1,535; 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.

(9) This regulation does not apply in relation to a student if he or she qualifies for a new fee grant and the course is a qualifying designated course.

Fee loans: New system qualifying students qualifying for new fee grant

22.—(1) A student who qualifies for a new fee grant may apply under this regulation for a loan in respect of his or her attendance on the qualifying designated course.

(2) The maximum amount of loan available under this regulation is the lesser of the amount for which the student applies and —

- (a) £1,225 or,
- (b) £612, if any of the circumstances in regulation 16(2) applies.

(3) Where the 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 that maximum.

PART 7

GRANTS FOR LIVING COSTS .

General qualifying conditions for grants for living costs

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

- (a) the student is not excluded from qualification by any of the following paragraphs, regulation 6 or regulation 7; and

- (b) the student satisfies the qualifying conditions for the particular grant for which he or she is applying.

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

(3) An eligible student does not qualify for a grant under this Part in respect of 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 24.

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

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

- (a) unpaid service in a hospital or in a public health service laboratory or with a primary care trust in the United Kingdom;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of 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⁽¹⁾ or a Special Health Authority established pursuant to section 11 of that Act⁽²⁾ or a Local Health Board established pursuant to section 16BA to that Act⁽³⁾;

(ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978⁽⁴⁾; or

(iii) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁵⁾.

(7) Subject to paragraph (8), an eligible student does not qualify for a grant under regulation 32, 33 or 34 in respect of an academic year of the designated course if the student does not qualify for relevant support in respect of that academic year.

(8) Paragraph (7) does not apply if the reason that the student does not qualify for relevant support is because —

- (a) he or she is participating in the action scheme of the European Community for the mobility of university students known as ERASMUS and his or her course is a course referred to in regulation 5(1)(d); and all the periods of study during the academic year are at an institution outside the United Kingdom; or
- (b) the degree course is a flexible ITT course.

(9) In paragraph (7) “relevant support” means, in the case of a grant under regulation 32, a grant for fees, or, in the case of a grant under regulation 33 or 34, a loan for fees.

(10) 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 (11), the student may qualify for a particular grant in accordance with this Part in respect of that academic year but does not qualify for a grant in respect of any academic year beginning before the academic year in which the relevant event occurred.

(11) The events referred to in paragraph (10) are —

- (a) the student’s course becomes a designated course;
- (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

(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).

enter or remain as defined in Part 1 of Schedule 1;

- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (f) the student becomes the child of a Swiss national.

Grants for disabled students' living costs

24.—(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 must 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 £1,225, 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 dependants - general

25.—(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 26 to 29.

(3) A deduction may be made from any element of the grant for dependants in accordance with regulation 51.

Grants for dependants - adult dependants' grant

26.—(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 a dependant of an eligible student who is 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 29, 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 29 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

27.—(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 in which childcare is provided 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⁽¹⁾ 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⁽²⁾.

(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

(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.

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 29 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 "childcare" means childcare provided by a person of a description prescribed by regulations under section 12(4)(b) of the Tax Credits Act 2002 **(1)**

Grants for dependants - parents' learning allowance

28.—(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 29, the basic amount being £1,400.

Grants for dependants - calculations

29.—(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 26 to 28 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 26;
- (b) to reduce the basic amount of the childcare grant for the academic year where the eligible student qualifies for that element under regulation 27 and

(1) 2002 c..21.

- (c) to reduce the basic amount of the parents' learning allowance where the eligible student qualifies for that element under regulation 28.

(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 must be reduced in accordance with regulation 26(4).

(5) The amount of the childcare grant calculated under this regulation must be reduced in accordance with regulation 27(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 23(11).

(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 must determine the following in relation to each relevant quarter by reference to the student's circumstances in the relevant quarter —

- (a) how many dependants the eligible student is to be treated as having;
- (b) who those dependants are;
- (c) whether the student is to be treated as a lone parent.

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

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

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

- (a) in the case of a person referred to in paragraph (8)(d), a quarter which begins after the relevant event occurs other than a quarter during which, in the opinion of the 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

30.—(1) In regulations 25 to 29 —

- (a) "adult dependant" (*"dibynnydd mewn oed"*) 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" (*"plentyn"*) 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" (*"dibynnydd"*) 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" (*"dibynno"*) means wholly or mainly financially dependent;
- (e) "lone parent" (*"rhiant unigol"*) means an eligible student who does not have a partner

and who has a dependent child or dependent children;

- (f) “net income” (“*incwm net*”) has the meaning given in paragraph (2);
- (g) subject to sub-paragraphs (h), (i) and (j), “partner” (“*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 5 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 5 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 5;
- (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 5.

(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⁽¹⁾;
- (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⁽²⁾;
- (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⁽³⁾;
- (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 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

31.—(1) A grant is available to an eligible student attending a course in medicine or dentistry (a necessary

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

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 24.

(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 51.

Higher education grants

32.—(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 began 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 £15,970 or less, he or she is entitled to receive the maximum amount of grant available;
- (b) in any case where the household income exceeds £15,970 and does not exceed £21,955, 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 £15,970; and

in any case where the household income exceeds £21,955, no grant is payable under this regulation.

Maintenance grant

33.—(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 £1,225.

(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 £1,225 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

34.—(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 eligible 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, or if he or she is treated as being liable to make payments in respect of a dwelling prescribed by regulations made under section 130(2) of that Act.

(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 eligible 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, or the student opts when applying for the grant not to provide the information needed to calculate the household income he or she receives £1,225.

(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 £1,225 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 special support grant is payable.

PART 8

LOANS FOR LIVING COSTS

Qualifying conditions for loans for living costs

35.—(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 paragraph (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 in Part 2 of Schedule 1 into which the student falls is paragraph 9.

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

36.—(1) Subject to regulations 40 to 45, 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 1, £3,495;
- (b) for a student in category 2, £6,320;
- (c) for a student in category 3, £5,380;
- (d) for a student in category 4, £5,380;
- (e) for a student in category 5, £4,510.

(2) Subject to regulations 40 to 45, 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 1, £3,160;
- (b) for a student in category 2, £5,755;
- (c) for a student in category 3, £4,680;
- (d) for a student in category 4, £4,680;
- (e) for a student in category 5, £4,180.

Maximum amount of loans for new system eligible students with full entitlement

37.—(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 £38,810.

(2) Subject to regulations 40 to 45, 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 1, £3,495;
- (ii) for a student in category 2, £6,320;
- (iii) for a student in category 3, £5,380;
- (iv) for a student in category 4, £5,380;
- (v) for a student in category 5, £4,510;

Y is the maintenance grant amount.

(3) Subject to regulations 40 to 45, 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 1, £3,160;
- (ii) for a student in category 2, £5,755;
- (iii) for a student in category 3, £4,680;
- (iv) for a student in category 4, £4,680;
- (v) for a student in category 5, £4,180;

Y is the maintenance grant amount.

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

- (a) where the student qualifies under regulation 33 for an amount of maintenance grant not exceeding £1,225, the amount of maintenance grant payable;
- (b) where the student qualifies under regulation 33 for an amount of maintenance grant exceeding £1,225, £1,225.; and
- (c) where no maintenance grant is payable, nil.

38.—(1) This regulation applies to a type 1 and type 2 teacher training student with a household income exceeding £38,810.

(2) Subject to regulations 40 to 45, 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 1, £3,495;
- (b) for a student in category 2, £6,320;
- (c) for a student in category 3, £5,380;
- (d) for a student in category 4, £5,380;
- (e) for a student in category 5, £4,510.

(3) Subject to regulations 40 to 45, 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 1, £3,160;
- (b) for a student in category 2, £5,755;
- (c) for a student in category 3, £4,680;
- (d) for a student in category 4, £4,680;
- (e) for a student in category 5, £4,180.

Students with reduced entitlement

39.—(1) Subject to regulations 40 to 45, the maximum amount of loan for living costs for which a student with reduced entitlement qualifies in respect of an academic year of a course (other than the final year of a course that is not an accelerated course) is —

- (a) where the student falls within regulation 23(3)(a) or 23(3)(b) —
 - (i) for a student in category 1, £1,620;
 - (ii) for a student in category 2, £3,030;
 - (iii) for a student in category 3, £2,160;
 - (iv) for a student in category 4, £2,160;
 - (v) for a student in category 5, £2,160;
- (b) where the student falls within regulation 23(3)(c) or 23(5) —
 - (i) for a student in category 1, £1,620;
 - (ii) for a student in category 2, £3,030;
 - (iii) for a student in category 3, £2,585;
 - (iv) for a student in category 4, £2,585;
 - (v) for a student in category 5, £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 1, £2,620;
 - (ii) for a student in category 2, £4,740;
 - (iii) for a student in category 3, £4,035;
 - (iv) for a student in category 4, £4,035;
 - (v) for a student in category 5, £3,905.

(2) Subject to regulations 40 to 45, 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 23(3)(a) or 23(3)(b) —

- (i) for a student in category 1, £1,230;
- (ii) for a student in category 2, £2,320;
- (iii) for a student in category 3, £1,680;
- (iv) for a student in category 4, £1,680;
- (v) for a student in category 5, £1,680;
- (b) where the student falls within regulation 23(3)(c) or 23(5) —
 - (i) for a student in category 1, £1,320;
 - (ii) for a student in category 2, £2,320;
 - (iii) for a student in category 3, £1,885;
 - (iv) for a student in category 4, £1,855;
 - (v) for a student in category 5, £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 1, £2,370;
 - (ii) for a student in category 2, £4,315;
 - (iii) for a student in category 3, £3,510;
 - (iv) for a student in category 4, £3,510;
 - (v) for a student in category 5, £3,135.

Students residing with parents

40.—(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 1 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

41. 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

42.—(1) Where a student falls into more than one of the categories in regulation 39 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.

(2) Category 3 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

43.—(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;
- (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 defined in Part 1 of Schedule 1;
- (c) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;

- (d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (f) the student becomes the child of a Swiss National.

(3) An eligible student to whom paragraph (1) applies does not qualify for a loan for living costs in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The maximum amount of loan for living costs payable is the aggregate of the maximum amount of loan for 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

44.—(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 36 to 38 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 1, by £52;
- (b) for a student in category 2, by £100;
- (c) for a student in category 3, by £110;
- (d) for a student in category 4, by £110;
- (e) for a student in category 5, by £78.85.

(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 36 to 38 must be 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 regulation does not apply in the case of a student with reduced entitlement.

Deductions from loans for living costs

45.—(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 51.

(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 51.

Interpretation of Part 8

46.—(1) In this Part —

- (a) a student is in category 1 if the student resides at his or her parents' home while attending the designated course;
- (b) a student is in category 2 if he or she is not in category 1 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 3 if the student is not in category 1 and
 - (i) the student attends an overseas institution as part of his or her course (subject, however, to regulation 42(2)) or
 - (ii) a student is in category 4 if the student is not in category 1 and attends the British Institute in Paris;
- (d) a student is in category 5 if the student is not in categories 1 to 4.
- (e) a “new system eligible student with full entitlement” is a new system eligible student other than a student with reduced entitlement;
- (f) an “old system eligible student with full entitlement” is an old system eligible student other than a student with reduced entitlement;
- (g) the “relevant date” means the first day of the first year of the specified designated course;

- (h) 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 23(3)(a) or 23(3)(b);
 - (ii) is not eligible for a grant for living costs by virtue of regulation 23(3)(c) or 23(5);
 - (iii) opts when applying for a loan for living costs not to provide details of the income of his or her household; or
 - (iv) where the duration of a course for the initial training of teachers is only one academic year, that year is not to be treated as the final year.

PART 9

GENERAL LOAN PROVISIONS

Additional amount of loans

47.—(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

48.—(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⁽¹⁾ equal to the percentage increase between the retail prices all items index published by the Office for National Statistics for March 2006 and that index so published for March 2007.

(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⁽²⁾ 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).

PART 10

COLLEGE FEE LOANS

49. A college fee loan is available to an eligible student in accordance with Schedule 4.

PART 11

FINANCIAL ASSESSMENT

Calculation of contribution

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

(2) For the purposes of the exercise of the 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

51.—(1) Subject to paragraphs (2) and (3), an amount equal to the contribution calculated under Schedule 5 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**;

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

(2) 1974 c. 39.

- (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 the case of an old system eligible student —
- (a) where the grant for fees is calculated in accordance with regulation 16(1) and 17(1), -
 - (i) **GFF** is £1,225; and
 - (ii) The amount of grant for fees payable is the amount left after deducting the contribution from **GFF**;
 - (b) where regulation 16(2)(a) or (c) applies or the corresponding circumstances under regulation 17(3) apply—
 - (i) **GFF** is £600; and
 - (ii) the amount of grant for fees payable is the amount left after deducting the contribution from **GFF**;
 - (c) where regulation 16(2)(b), (d) or (e) applies or the corresponding circumstances under regulation 17(3) apply —
 - (i) **GFF** is £600; and
 - (ii) the contribution is reduced by £600 before it is applied against **GFF**;
 - (d) where the grant for fees is calculated in accordance with regulation 17(1) or 17(4);
 - (i) **GFF** is nil;
 - (ii) there is no reduction in the amount of grant for fees calculated under regulation 17; and
 - (iii) the contribution is applied first to reduce **ADG**;
 - (e) where the designated course is a course for the initial training of teachers (other than a course for a first degree) —
 - (i) **GFF** is nil;
 - (ii) There is no reduction in the amount of grant for fees calculated under regulations 16 and 17; and
 - (iii) The contribution is first applied to reduce **ADG**;
 - (f) Where the student does not qualify for a grant for fees in respect of the academic year by virtue of participating in the ERASMUS programme —

- (i) **GFF** is nil;
 - (ii) the contribution is reduced by £1,225; and
 - (iii) the contribution is applied first to reduce **ADG**;
 - (g) where the student does not qualify for a grant for fees for any other reason, **GFF** is nil and the contribution is applied first to reduce **ADG**.
- (3) In the case of a new system eligible student, **GFF** is nil and the contribution is applied first to reduce **ADG**.
- (4) In this regulation —
- (a) **ADG** is the amount, if any, of the adult dependants' grant calculated in accordance with regulation 26;
 - (b) **CCG** is the amount, if any, of the childcare grant calculated in accordance with regulation 27;
 - (c) **PLA** is the amount, if any, of the parents' learning allowance calculated under regulation 28 (except the first £50 of the allowance);
 - (d) **LLC** is the amount of loan for living costs, if any, for which the eligible student other than a student with reduced entitlement qualifies under Part 8;
 - (e) **GFT** is the amount of the grant for travel for which the eligible student qualifies under regulation 31, if any.
- (5) Subject to paragraphs (6) and (7), the “minimum level for the academic year” is —
- (a) £2,620, in the case of a student in category 1;
 - (b) £4,740, in the case of a student in category 2;
 - (c) £4,035, in the case of a student in category 3;
 - (d) £4,035, in the case of a student in category 4;
 - (e) £3,385, in the case of a student in category 5;
- (6) Subject to paragraph (7), 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) £2,370, in the case of a student in category 1;
 - (b) £4,315, in the case of a student in category 2;
 - (c) £3,510, in the case of a student in category 3;
 - (d) £3,510, in the case of a student in category 4;
 - (e) £3,135, in the case of a student in category 5.
- (7) Where under regulation 42 different categories apply for different quarters of the academic year, the minimum levels in paragraphs (5) and (6) are the aggregate of the amounts determined under paragraph (8) for each of the three quarters in respect of which a loan is payable.

(8) The amount determined for each quarter under this paragraph is one third of the amount in paragraph (5) or (6) which corresponds to the rate applicable for the quarter.

(9) The loan for living costs payable in respect of an academic year to a type 1 teacher training student who has a household income exceeding £38,810 is the amount left after deducting £600 from the amount of loan for living costs left after applying the contribution in accordance with this regulation.

(10) The loan for living costs payable in respect of an academic year to a type 2 teacher training student who has a household income exceeding £38,810 is the amount left after deducting £1,225 from the amount of loan for living costs left after applying the contribution in accordance with this regulation.

(11) Categories 1 to 5 have the meaning given in regulation 46.

PART 12

PAYMENTS

Payment of grants or loans for fees

52.—(1) The National Assembly must pay the grant or loan for fees for which a student qualifies to the institution to which the student is liable to make payment where it receives a valid request for payment from the relevant academic authority.

(2) The National Assembly must pay the grant or loan for fees 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 for which the student qualifies, the National Assembly may make a provisional assessment.

(4) The National Assembly may pay the fee loan instalments.

(5) Where assessment of an old system student's contribution or other matters have delayed the final calculation of the amount of fee contribution loan for which the student qualifies, the National Assembly may make a provisional assessment and payment.

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

- (a) before the expiry of a period of three months beginning with the first day of the academic year the eligible student ceases to attend the course; and
- (b) 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.

Payment of grants and loans for living costs

53.—(1) Subject to the following paragraphs, the National Assembly may pay support under Part 7 or Part 8 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 7 or Part 8 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 8, 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) Subject to regulation 8, no support under Part 7 or Part 8 is due in respect of a payment 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 payment period.

(5) Where an eligible student withdraws from, abandons or is expelled from his course on or after the relevant date, the National Assembly must determine —

- (a) the amount of each grant for living costs for which the student qualifies that would be payable in respect of the relevant payment period if the student had not withdrawn from, abandoned or been expelled from the course (the “full amount”); and
- (b) how much the full amount is in respect of the period which runs from the first day of the relevant payment period up to and including the day on which the student withdraws, abandons or is expelled from the course (the “partial amount”).

(6) If the National Assembly has made payments of grants for living costs in respect of the relevant payment

period before the point in that period at which the student withdraws from, abandons or is expelled from the course and that payment exceeds the partial amount —

- (a) it may treat the excess as an overpayment; or
- (b) if it considers that it is appropriate to do so it may extend the student's period of eligibility until the end of the relevant payment period and determine that the full amount is due in respect of that payment period.

(7) If a payment of grant for living costs in respect of the relevant payment period is due to be made or is made after the student withdraws from, abandons or is expelled from the course, the amount due is the partial amount unless the National Assembly considers that it is appropriate to extend the period of eligibility until the end of the relevant payment period and to determine that the full amount is due in respect of that payment period.

(8) No support under Part 7 or Part 8 is payable in respect of a payment 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 payment period.

(9) In this regulation "payment 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.

(10) 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.

(11) 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.

(12) Where, after the National Assembly has made any payment of support under Part 7 or Part 8, 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 54.

(13) Where the National Assembly has made any payment of support under Part 7 or Part 8 and a student who qualifies for a loan under Part 8 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.

(14) Where, after the National Assembly has made any payment of loan for which a student qualifies in respect of an academic year under Part 8, 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 54.

(15) In any case where an attendance confirmation is required, the National Assembly must not make any payment of support to the eligible student under Part 7 or Part 8 before it has received that confirmation.

(16) An attendance confirmation is required from an institution in respect of the first academic year of the present course where that year begins on or after 1 September 2006 unless an exception in paragraph (17) applies.

(17) An exception applies if —

- (a) a grant for disabled students' living costs is payable in which case that particular grant may be paid before the National Assembly has received an attendance confirmation; or

- (b) the National Assembly has determined that owing to exceptional circumstances it would be appropriate to make payment without receiving an attendance confirmation.

(18) An institution must send the attendance confirmation to the National Assembly as soon as reasonably practicable after the first day of the first academic year in respect of which the confirmation is due.

(19) In this regulation, “attendance confirmation” means —

- (a) where a student with a disability is undertaking a course in the United Kingdom by distance learning because he or she is unable to attend the course for a reason that relates to his or her disability, confirmation that the student has started to undertake the course; and
- (b) in any other case, confirmation from the institution that the eligible student has presented himself or herself at that institution and has started to attend the present course.

Overpayments

54.—(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 7 or 8 which for whatever reason exceeds the amount of support to which the student is entitled under Part 7 or 8.

(3) Any overpayment of any grant under Part 7 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 13

SUPPORT FOR PART-TIME COURSES

Eligible part-time students

55.—(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 Part 2 of 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) only applies if the agreement was made —

- (a) before 25th September 1991; and
- (b) with the concurrence of the borrower's curator or at a time when he or she had no curator.

(7) An eligible part-time student does not qualify for support under regulation 58(1)(b) or regulation 59 if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

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

- (a) under regulation 58(1)(a) unless he or she undertakes the designated part-time course in Wales or England; or
- (b) under regulation 58(1)(b) or 58 unless he or she undertakes the designated part-time course in the United Kingdom.

(9) An eligible part-time student does not qualify for support under regulation 58 if he or she has undertaken one or more part-time courses for eight academic years

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

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 58 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.

(13) Where one of the events listed in paragraph (15) occurs in the course of an academic year —

- (a) a student may qualify for a grant in respect of fees in respect of that academic year in

(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 Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and

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

(14) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g) or (h) of paragraph (15) occurs in the course of an academic year —

- (a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and
- (b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(15) The events are —

- (a) the student's course becomes a designated part-time course;
- (b) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain (as defined in Part 1 of Schedule 1);
- (c) a state accedes to the European Community where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three year-period immediately preceding the first day of the first academic year of the course;
- (f) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 1);
- (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1; or
- (h) the student becomes the child of a Swiss national.

(16) Despite paragraph (2), a person is an eligible part-time student for the purposes of this Part if he or she satisfies the conditions in paragraphs (17) or (18).

(17) The conditions in this paragraph are —

- (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;
- (b) the person was ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) the person's status has not expired or been terminated.

(18) The conditions in this paragraph are

- (a) 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;
- (b) 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;
- (c) the person was ordinarily resident in Wales on the first day of the first academic year of the course in sub-paragraph (a); and
- (d) the person's status as an eligible student has not terminated.

(19) 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

56.—(1) Subject to paragraph (2), a part-time course is designated for the purposes of section 22(1) of the Act and regulation 55 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 55(1) the National Assembly may designate courses of higher education which are not designated by paragraph (1).

Period of eligibility

57.—(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.

(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 62 or 63; or

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

- (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 66.

Support for part-time courses

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

- (a) a grant in respect of fees not exceeding the lesser of the following amounts —
 - (i) the basic grant, and
 - (ii) the “actual fees” (“ffioedd gwirioneddol”), being the amount of fees charged in respect of an academic year of the designated part-time course; and
- (b) a grant not exceeding £1000 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 $\frac{\mathbf{FT}}{\mathbf{PT}} \times 100$

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” (“*grant sylfaenol*”) 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 support 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 or her application the eligible part-time student or his or her partner is entitled —
 - (i) under Part VII of the Social Security Contributions and Benefits Act 1992⁽¹⁾ to income support, housing benefit or council tax benefit; or
 - (ii) under Part 1 of the Jobseekers Act 1995⁽²⁾ to income-based jobseekers allowance or under section 2 of the Employment and Training Act 1973⁽³⁾ to new deal allowance;
 - (b) where the relevant income is less than £15,345, the maximum amount of support available under paragraph (1) is payable;
 - (c) where the relevant income is £15,345, the maximum amount of support available under paragraph (1)(b) is payable together with £50 less than the maximum amount of support available under paragraph (1)(a);
 - (d) where the relevant income exceeds £15,345 but is less than £23,145, the maximum amount of support available under paragraph (1)(b) is payable and the amount of support payable under paragraph (1)(a) is the amount determined in accordance with paragraph (6);
 - (e) where the relevant income is £23,145, the maximum amount of support available under paragraph (1)(b) is payable and the amount of

(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.

(3) 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.

assistance payable under paragraph (1)(a) is £50;

- (f) where the relevant income exceeds £23,145 but is less than £23,745, the maximum amount of support available under paragraph (1)(b) is payable and no support is payable under paragraph (1)(a);
- (g) where the relevant income is £23,745 or more but less than £25,645, no support is available under paragraph (1)(a) and the amount of support payable under paragraph (1)(b) is the amount left after deducting from the maximum amount of support available under paragraph (1)(b) £1 for every complete £2.00 by which the relevant income exceeds £23,745;
- (h) where the relevant income is £25,645, no support is payable under paragraph (1)(a) and the amount of support payable under paragraph (1)(b) is £50;
- (i) where the relevant income exceeds £25,645, no support is payable under paragraph (1).

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

- (a) £50 plus a further £1 for each complete £15.92, £12.79 and £9.94 by which the relevant income exceeds £15,345 according to whether the intensity of study is level 1, 2 or 3, respectively; or
- (b) where the basic grant is greater than the actual fees, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between the basic grant and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under paragraph (1)(a) is payable).

(7) Where under regulation 62 a student receives support in relation to more than one designated part-time course in an academic year, the maximum amount of support 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” (*“plentyn”*) 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” (*“y flwyddyn ariannol gyfredol”*) 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” (“*dibynnol*”) means wholly or mainly financially dependent;
- (d) “financial year” (“*blwyddyn ariannol*”) 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” (“*incwm*”) 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” (“*partner*”) means any of the following —
 - (i) the spouse of an eligible part-time student;
 - (ii) the civil partner of an eligible part-time student;
 - (iii) a person ordinarily living with an eligible part-time student as if he or she were his or her spouse where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which he or she is being assessed for assistance and where he or she began the designated part-time course before 1st September 2005;
 - (iv) 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

59.—(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 the student is obliged to incur in respect of his or her 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) £9,105 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) £1,225 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.

Applications for support

60.—(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) one of the events listed in paragraph (15) of regulation 55 occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the National Assembly within a period of six months beginning with the date on which the event occurs.
- (b) the applicant is applying for support under regulation 59 , in which case the application must reach the National Assembly as soon as is reasonably practicable; or
- (c) 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.

(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.

Requirements as to the provision of information and other matters

61.—(1) Schedule 3 applies to the provision of information.

(2) In addition to any requirement imposed on him or her under paragraph 1 of Schedule 3 to provide information referred to in that Schedule, an eligible part-time student applying for, or in receipt of, a loan must comply with any requirement imposed on him or her under the following paragraphs.

(3) [Subject to paragraph (4), every applicant for a loan must, if required, enter into a contract with the National Assembly (on the Assembly's usual terms).]

(4) A person referred to in paragraph (2) must, if requested to do so at any time by the National Assembly, enter into an agreement with the Assembly to repay a loan by a particular method, and the Assembly may withhold any payment of a loan pending compliance with such a request.

(5) A person referred to in paragraph (2) must, on request, provide the National Assembly with —

- (a) any information which the National Assembly considers it requires to recover a loan;
- (b) his or her United Kingdom National Insurance number;
- (c) sight of his or her valid national identity card;
- (d) sight of his or her valid passport issued by the state of which he or she is a national;
- (e) sight of his or her birth certificate,

and the National Assembly may withhold any payment of a loan pending compliance with its request or a sufficient explanation for any non-compliance.

(6) The National Assembly may at any time verify with the Department for Work and Pensions any United Kingdom National Insurance number provided to it (under paragraph (5)(b) or otherwise), or may check with that Department whether a person referred to in paragraph (2) has such a number with a view to obtaining it.

Transfer of status

62.—(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

63.—(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 56(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 24 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 59 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 24 in a single instalment, the maximum amount of grant payable to him or her pursuant to regulation 59 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 24, 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 59 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 5 to 8;
- (c) the maximum amount of any support under Part 7 or 8 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 59 in a single instalment, the maximum amount of grant payable to him or her under regulation 24 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of grant paid to him or her for that purpose pursuant to regulation 59 and where the resulting amount is nil or a negative amount that amount is nil.

Payment of support to eligible part-time students

64.—(1) The National Assembly must pay support under regulation 59 and under regulation 58(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

65.—(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 58(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

66.—(1) Any overpayment of a grant in respect of fees under regulation 58(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 qualifies 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 14

SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

Eligible postgraduate students

67.—(1) An eligible postgraduate student qualifies, subject to and in accordance with this Part, 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 Part 2 of 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⁽¹⁾;
 - (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⁽²⁾ which includes payment for meeting additional

⁽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) he or she is in breach of an obligation to repay any loan;
- (c) he or she 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 or herself by his or her conduct to be unfitted to receive support.

(5) For the purposes of paragraphs (4)(b) and (4)(c), “loan” (*“benthyciad”*) 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 (4)(c) only applies if the agreement was made –

- (a) before the 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 postgraduate student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 1 into which he or she falls is paragraph 9.

(8) 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.

(9) Notwithstanding paragraph (2), a person is an eligible postgraduate student for the purposes of this Part if he or she satisfies the conditions in paragraphs (10) or (11).

(10) The conditions in this paragraph are —

- (a) the person 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;
- (b) the person was ordinarily resident in Wales on the first day of the academic year of the present designated postgraduate course; and
- (c) the person’s status as an eligible postgraduate student has not terminated.

(11) The conditions are —

- (a) 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 designated postgraduate course;
- (b) the student’s status as an eligible postgraduate student in connection with the course in sub-paragraph (a) 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;
 - (c) the person was ordinarily resident in Wales on the first day of the academic year of the course in sub-paragraph (a); and
 - (d) the person's status as an eligible postgraduate student has not terminated.
- (12) 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

68. A postgraduate course is designated for the purposes of section 22(1) of the Act and regulation 67 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⁽¹⁾.

(3) For the purposes of section 22 of the Act and regulation 67, the National Assembly may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

69.—(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 —

- (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 70; 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 75.

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

Transfer of status

70.—(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

71.—(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

72. Schedule 3 applies to the provision of information.

Amount of grants

73. The grant under this Part is such amount as the National Assembly considers appropriate, not exceeding £5,780 in respect of an academic year.

Payment of grants

74.—(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

75.—(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

(1) 1998 c.38.

The Presiding Officer of the National Assembly

SCHEDULE 1

[Regulations 4(2), 6(18), 23(2), 23(11)(b), 43(2), 55(2),(7) and (15),67(7) and Schedule 4(4) and (8)

Eligible Students

PART 1

Interpretation

1.—(1) For the purposes of this Schedule —

“Directive 2004/38” means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004⁽¹⁾ on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“EC national” means a national of a Member State of the European Community;

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

“EEA frontier self-employed person” means an EEA national who —

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” means an EEA national who—

- (a) is a worker in Wales; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” means a national of an EEA State other than the United Kingdom;

(1) OJ L158, 30.04.2004, p77-123.

(2) Cm. 2073.

(3) Cm. 2183.

“EEA self-employed person” means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“EEA State” means a Member State of the European Economic Area;

“employed person” means an employed person within the meaning of Annex 1 to the Swiss Agreement;

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

“family member” means (unless otherwise indicated) —

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person —
 - (i) his or her spouse or civil partner;
 - (ii) his or her child or the child of his or her spouse or civil partner; or
 - (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person —
 - (i) his or her spouse or civil partner; or
 - (ii) his or her child or the child of his or her spouse or civil partner;
- (c) in relation to an EC national who falls within Article 7(1)(c) of Directive 2004/38 —
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;
- (d) in relation to an EC national who is self-sufficient within the meaning of Article 7(1)(c) of Directive 2004/38 —
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner;

- (iii) dependent direct relatives in his or her ascending line or that of his or her spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9 —
 - (i) his or her spouse or civil partner; or
 - (ii) direct descendants of his or her or of his or her spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of his or her or of his or her spouse or civil partner; and
- (f) in relation to a person (“A”) who is a refugee or person with leave to enter or remain, a person (“B”) who was, on the date on which A’s application for asylum was made, and remains, A’s spouse, civil partner or child, and who is recognised as such in the documentation notifying A of the grant of recognition of his or her status as a refugee or person with leave to enter or remain or in any associated documentation sent to B. For the purposes of this paragraph of the definition of “family member”, “child” includes a step-child but excludes a person who had attained the age of 18 on or before the date on which the application for asylum was made;

“person with leave to enter or remain” means a person who—

- (a) has been informed by a person acting under the authority of the Secretary of the State for the Home Department that, although he or she is considered not to qualify for recognition as a refugee, it is thought right to allow him or her to enter or remain in the United Kingdom;
- (b) has been granted leave to enter or to remain accordingly (and which grant has not been revoked); 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;

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

“self-employed person” means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“self-sufficient” means self-sufficient within the meaning of Article 7(1)(b) of Directive 2004/38;

“settled” has the meaning given by section 33(2A) of the Immigration Act 1971⁽¹⁾;

“Swiss Agreement” means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999⁽²⁾ and which came into force on 1st June 2002;

“Swiss employed person” means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” means a Swiss national who—

- (a) is an employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” means a Swiss national who—

- (a) is a self-employed person in Wales; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to his or her residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“United Kingdom national” means a person who falls to be treated as a national of the United Kingdom for the purposes of the Community Treaties;

“worker” means a worker within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be;

(2) For the purposes of this Schedule, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly.

(3) For the purposes of this Schedule, a person who is ordinarily resident in Wales, England, Scotland, Northern Ireland or the Islands, as a result of having

(1) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).

(2) Cm. 4904.

moved from another of those areas for the purpose of undertaking—

- (a) the present course; or
- (b) a course which, disregarding any intervening vacation, the student undertook immediately before undertaking the present course,

is to be considered to be ordinarily resident in the place from which he or she moved.

(4) For the purposes of this Schedule, a person is to be treated as ordinarily resident in Wales, the United Kingdom and Islands or in the territory comprising the European Economic Area and Switzerland if he or she would have been so resident but for the fact that —

- (a) he or she;
- (b) his or her spouse or civil partner;
- (c) his or her parent; or
- (d) in the case of a dependent direct relative in the ascending line, his or her child or child's spouse or civil partner,

is or was temporarily employed outside Wales, the United Kingdom and Islands or, as the case may be, outside the territory comprising the European Economic Area and Switzerland.

(5) For the purposes of sub-paragraph (4), temporary employment outside Wales, the United Kingdom and Islands or the territory comprising the European Economic Area and Switzerland includes —

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the European Economic Area and Switzerland as members of such forces.

(6) For the purposes of this Schedule an area which —

- (a) was previously not part of the European Community or the European Economic Area; but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of these areas,

is to be considered to have always been a part of the European Economic Area;

PART 2

Categories

Persons who are settled in the United Kingdom

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

- (a) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

3. A person who —

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where his or her residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

Refugees and persons with leave to enter or remain

4.—(1) A person who is a refugee and who —

- (a) is ordinarily resident in the United Kingdom and Islands;
- (b) has not ceased to be so resident since he or she was recognised as a refugee; and
- (c) is ordinarily resident in Wales on the first day of the first academic year of the course.

(2) A person who is a family member of a refugee and who —

- (a) is ordinarily resident in the United Kingdom and Islands;
- (b) has not ceased to be so resident since the date on which —
 - (i) he or she was granted recognition as a family member of the refugee (whether at the time the refugee was granted refugee status or subsequently), or
 - (ii) he or she arrived in the United Kingdom and Islands following the grant of recognition as a family member of the refugee,

whichever last occurs; and

- (c) is ordinarily resident in Wales on the first day of the first academic year of the course.

5.—(1) A person with leave to enter or remain who —

- (a) is ordinarily resident in the United Kingdom and Islands;
- (b) has not ceased to be so resident since he or she was recognised as a refugee;
- (c) has been so resident throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) is ordinarily resident in Wales on that first day.

(2) A person who is a family member of a person with leave to enter or remain who —

- (a) is ordinarily resident in the United Kingdom and Islands;
- (b) has not ceased to be so resident since the date on which —
 - (i) he or she was granted recognition as a family member of the person with leave to enter or remain (whether at the time the person with leave to enter or remain was granted status as a person with leave to enter or remain or subsequently), or
 - (ii) he or she arrived in the United Kingdom and Islands following the grant of recognition as a family member of the person with leave to enter or remain,

whichever last occurs; and

- (c) has been so resident throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) is ordinarily resident in Wales on that first day.

Workers, employed persons, self-employed persons and their family members

6.—(1) A person who—

(a) is —

- (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who—

- (a) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers⁽¹⁾, as extended by the EEA Agreement.

Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

8.—(1) A person who—

- (a) is settled in the United Kingdom;

(1) OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

- (b) left the United Kingdom and exercised a right of residence after having been settled in the United Kingdom;
- (c) is ordinarily resident in Wales on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where his or her ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d) .

(2) For the purposes of this paragraph, a person has exercised a right of residence if he or she is a United Kingdom national, a family member of a United Kingdom National for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if he or she goes to the state within the territory comprising the European Economic Area and Switzerland of which he or she is a national or of which the person in relation to whom he or she is a family member is a national .

EC nationals

9.—(1) A person who —

- (a) is either –
 - (i) an EC national on the first day of the first academic year of the course; or
 - (ii) a family member of a such a person;
- (b) is —
 - (i) attending a designated course in Wales; or
 - (ii) undertaking a designated part-time course or designated postgraduate course in Wales;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph 1(4).

(3) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national on the first day of the first academic year of the course is treated as being satisfied.

10.—(1) A person who—

- (a) is an EC national other than a United Kingdom national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (c).

(2) Where a state accedes to the European Community after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EC national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.

Children of Swiss nationals

11. A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
- (b) is ordinarily resident in Wales on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and

Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

- (d) in a case where his or her ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”.

SCHEDULE 2

Regulations 5 and 56

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 11, 61 and 72

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

Regulation 49

COLLEGE FEE LOANS

Interpretation

1. In this Schedule—

- (a) “qualifying course” means a full-time designated course that is provided by the University of Oxford or the University of Cambridge and—
 - (i) is listed in regulation 5(5);
 - (ii) leads to qualification as a social worker; or
 - (iii) in respect of any academic year of which the student is eligible to receive a payment under a healthcare bursary the amount of which is calculated by reference to his or her income or a Scottish healthcare bursary the amount of which is calculated by reference to his or her income;
- (b) “qualifying student” means a person who meets the conditions in paragraph 3;
- (c) “standard academic year” means an academic year of the qualifying course that would be taken by a person who does not repeat any part of the course and who enters the course at the same point as the qualifying student.

Availability of college fee loans

2. A person qualifies for a college fee loan in connection with his or her attendance on a qualifying course in accordance with this Schedule.

3. A person qualifies for a college fee loan if he or she meets the following conditions—

- (a) he or she is an eligible student who is not excluded from qualifying by paragraph 4;
- (b) he or she has an honours degree from an institution in the United Kingdom;
- (c) he or she is taking a qualifying course which he or she begins on or after 1st September 2006;
- (d) he or she is a member of a college or a permanent private hall of the University of Oxford or a member of a college of the University of Cambridge; and
- (e) he or she is under the age of 60 on the first day of the first academic year of the qualifying course.

4. An eligible student who falls within paragraph 9 of Part 2 of Schedule 1 does not qualify for a college fee loan under these Regulations if he or she is ordinarily resident in England, Scotland or Northern Ireland.

5. To receive a college fee loan, a qualifying student must enter into a contract with the National Assembly.

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

7. Where one of the events listed in paragraph 8 occurs in the course of an academic year—

- (a) a student may qualify for a college fee loan in accordance with this Schedule in respect of that academic year provided that the relevant event occurred within the first three months of the academic year; and
- (b) a college fee loan is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

8. The events are—

- (a) the student, his or her spouse, his or her civil partner or his or her parent is recognised as a refugee or becomes a person with leave to enter or remain as defined in Part 1 of Schedule 1;
- (b) a state accedes to the European Community where the student is a national of that state or is the family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (c) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EC national;
- (d) the student acquires a right of permanent residence as defined in Part 1 of Schedule 1;
- (e) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
- (f) the student becomes the child of a Swiss national.

9. A college fee loan is available in respect of each standard academic year of the qualifying course and in respect of one academic year of the qualifying course that is not a standard academic year.

10. Where a qualifying student is allowed to study the content of one standard academic year of the qualifying course over two or more academic years, for the purpose of determining whether the student qualifies for a college fee loan for those years, the first of such years of study is to be treated as a standard academic year and the following years of that kind are to be treated as academic years that are not standard academic years.

Amount of the college fee loan

11.—(1) The amount of the college fee loan in respect of an academic year of a qualifying course is an amount equal to the college fees payable by the student to his or her college or permanent private hall in connection with that year.

(2) Where a qualifying student has applied for a college fee and the amount of the college fee was of less than the maximum amount available 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 maximum amount available.

Transfers

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

- (a) the National Assembly must transfer the student's status as a qualifying student to the other course on the request of the student unless the period of eligibility has terminated;
- (b) if the student transfers before the end of the academic year after applying for a college fee loan, the amount applied for is paid to the relevant college or permanent private hall in respect of the qualifying course to which the student transfers provided that the conditions in paragraph 14 are met and he or she cannot qualify for another college fee loan in respect of that academic year;
- (c) if the student transfers after the college fee loan is paid and before the end of the academic year, he or she cannot apply for another college fee loan in connection with the academic year of the qualifying course to which he or she transfers.

Contribution

13. Where the only support that a qualifying student is applying for is the college fee loan, no contribution is calculated.

Payment

14.—(1) The National Assembly must pay the college fee loan for which a qualifying student qualifies to the college or permanent private hall to which the student is liable to make payment.

(2) The National Assembly must pay the college fee loan in one lump sum.

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

- (a) it has received a valid request for payment from the college or permanent private hall; and
- (b) a period of three months beginning with the first day of the academic year has expired.

(4) The college or permanent private hall is required to send confirmation of attendance to the National Assembly in such form as the Assembly may require and the National Assembly must not pay the college fee loan in respect of the academic year until it has received that confirmation unless it determines that owing to exceptional circumstances, it would be appropriate to make a payment without receiving an attendance confirmation.

(5) The National Assembly must not make a payment of college fee loan in respect of a qualifying course if—

- (a) before the expiry of a period of three months beginning with the first day of the academic year the qualifying student ceases to attend the course; and
- (b) the college or permanent private hall has determined or agreed that the student will not commence attending again during the academic year in respect of which the college fees are payable or at all.

Overpayment

15. Any overpayment of college fee loan is recoverable by the National Assembly from the college or permanent private hall.

SCHEDULE 5

Regulations 2(1), 30, 50(1) and 51(1)

FINANCIAL ASSESSMENT

Definitions

1. In this Schedule: -

- (a) “existing student” (“*myfyriwr presennol*”) means an eligible student who is not a new eligible student;
- (b) “financial year” (“*blwyddyn ariannol*”) 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” (“*incwm yr aelwyd*”) has the meaning given in paragraph 3;
- (d) “independent eligible student” (“*myfyriwr annibynnol cymwys*”) has the meaning given in paragraph 2;
- (e) “independent old system student” (“*myfyriwr cymwys dan yr hen drefn*”) means an eligible student –
 - (i) who is an old system eligible student; and
 - (ii) who does not have a partner;
- (f) “Member State” (“*Aelod-wladwriaeth*”) means a Member State of the European Union;
- (g) “new eligible student” (“*myfyriwr cymwys newydd*”) means an eligible student who begins a designated course on or after 1st September 2004;
- (h) “parent” (“*rhiant*”) means a natural or adoptive parent and “child” (“*plentyn*”), “mother” (“*mam*”) and “father” (“*tad*”) is construed accordingly;

- (i) “parent student” (“*myfyriwr sy’n rhiant*”) means an eligible student who is the parent of an eligible student;
- (j) “partner” (“*partner*”) in relation to an eligible student means any of the following —
 - (i) the spouse of an eligible student;
 - (ii) the civil partner of an eligible student;
 - (iii) a person ordinarily living with an eligible student as if he or she were his or her spouse where an eligible student falls within paragraph 2(a) and he begins the designated course on or after 1st September 2000;
 - (iv) 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;
- (k) “partner” (“*partner*”) in relation to the parent of an eligible student means any of the following other than another parent of the eligible student —
 - (i) the spouse of an eligible student’s parent;
 - (ii) the civil partner of an eligible student’s parent;
 - (iii) a person ordinarily living with the parent of an eligible student as if he or she were his or her spouse;
 - (iv) a person ordinarily living with the parent of an eligible student as if he or she were the parent’s civil partner;
- (l) “preceding financial year” (“*blwyddyn ariannol flaenorol*”) means the financial year immediately preceding the relevant year;
- (m) “relevant year” (“*blwyddyn berthnasol*”) means the academic year in respect of which the household income falls to be assessed;
- (n) “residual income” (“*incwm gweddiol*”) 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
- (o) “taxable income” (“*incwm trethadwy*”) means, in relation to paragraph 4, in respect of the academic year for which an application has been made under regulation 9 and, in relation to paragraph 5, in respect (subject to sub-paragraphs (3), (4) and (5) of paragraph 5) of the preceding financial year, a person’s taxable income from all sources computed as for the purposes of —

- (i) the Income Tax Acts;
- (ii) the income tax legislation of another Member State which applies to the person's income; or
- (iii) where the legislation of more than one Member State applies to the period, the legislation under which the 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 is 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 —
 - (i) has care of a person under 18 years of age on the first day of the relevant year; or
 - (ii) has had care of a person under 18 years of age at any time during the present course prior to the first day of the relevant year;
- (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 subparagraph 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.

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(k)(vi)) 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 £1,050 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 must not be aggregated under paragraph (b) of sub-paragraph (2) in the case of a parent student whose child or whose partner's child holds an award in respect of which the household income is calculated with reference to the residual income of the parent student or of the parent student's partner or of both.

Calculation of eligible student's residual income

4.—(1) For the purpose of determining the residual income of an eligible student, there is deducted from his 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⁽¹⁾, or where the eligible student's income is computed

(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.

for the purposes of the income tax legislation of another Member State, the gross amount of any such premium or sum in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts.

(2) Where the only paragraph in Part 2 of Schedule 1 into which an eligible student falls is paragraph 9 and his or her income arises from sources or under legislation different from sources or legislation normally relevant to a person referred to in paragraph 9 of Part 2 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 Part 2 of Schedule 1 would be treated if in similar circumstances and in receipt of similar income.

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

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

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 is to be deducted from the taxable income determined under sub-paragraph (1) the aggregate of any amounts falling within any of the following sub-paragraphs —

- (a) the gross amount of any premium or sum relating to a pension (not being a premium payable under

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

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, £1,050.

(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 or her

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 – old system eligible students

8.—(1) The contribution payable in relation to an eligible student who is an old system eligible student is calculated –

- (a) in any case where the eligible student is an independent old system eligible student, in accordance with sub-paragraph (2); and
- (b) in any case where the eligible student is not an independent old system eligible student, in accordance with sub-paragraph (3).

(2) The contribution payable in relation to an independent old system eligible student is, —

- (a) in any case where the household income is £10,505 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £10,505; and
- (b) in any case where the household income is less than £10,505, nil.

(3) The contribution payable in relation to an old system eligible student who is not independent is –

- (a) in any case where the household income is £22,560 or more, £45 with the addition of £1 for every complete £9.50 by which the household income exceeds £22,560; and
- (b) in any case where the household income is less than £22,560, nil.

(4) The amount of the contribution payable under sub-paragraph (2) or (3) must in no case exceed £7,430.

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

- (a) £7,430; 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.

Calculation of contribution – new system students

9.—(1) In relation to an eligible student who is a new system eligible student, the contribution payable is –

- (a) in any case where the household income exceeds £38,810, £1 for every complete £9.50 by which the household income exceeds £38,810; and
- (b) in any case where the household income is £38,810 or less, nil.

(2) The contribution must not in any case exceed £7,430.

(3) Where sub-paragraph (4) applies, the aggregate contributions must not exceed –

- (a) £7,430; or
- (b) the contribution which would have been payable if only one eligible student held an award.

(4) This sub-paragraph applies where a contribution is payable in relation to –

- (a) two or more old system 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 paragraph 5 and 7; or
- (b) two or more independent eligible students who are each with a partner in respect of the same household income.

Split contributions

10.—(1) Where a contribution is payable under paragraph 8 or 9 other than in relation to [an independent eligible student with a partner], the contribution is payable in accordance with the following sub-paragraphs —

- (a) for any year in which a statutory award other than an award referred to in 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 or 9 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

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

- (c) the Health Services and Public Health Act 1968 (1) (and no other statutory award) is held by more than one child of the eligible student's parents, the contribution payable in respect of the eligible student is an amount equal to the contribution calculated under paragraph 8 or 9 divided by the number of children of his or her parents who hold a relevant statutory award;
 - (d) if, as a result of the apportionment under subparagraph (b), any part of the contribution calculated under paragraph 8 or 9 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

(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.

- (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 £22,560 where the student is an old system student or exceeds £38,810 where the student is a new system student;
- (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 £22,560 where the student is an old system student or exceeds £38,810 where the student is a new system student.

(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(k) 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" ("*aelwyd berthnasol*") means all those eligible students in respect of whom a contribution is calculated with reference to the same income under both paragraphs 5 and 7.

Split contributions – independent eligible students

11.—(1) Where a contribution is payable under paragraph 8 or 9 in relation to an independent eligible student with a partner, the contribution is payable in accordance with the following sub-paragraphs—

- (a) for any year in which a statutory award other than an award referred to in paragraph (b) of this sub-paragraph is held by the independent eligible student's partner, the contribution payable in respect of the independent eligible student is such proportion of any contribution calculated under paragraph 8 or 9 as the National Assembly after consultation with any other authority involved considers just;
- (b) subject to the following sub-paragraphs, for any year in which an award payable under these Regulations, the Education (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 the independent eligible student's partner, the contribution payable in respect of the independent eligible student is an amount equal to half the contribution calculated under paragraph 8 or 9;
- (c) if, as a result of the apportionment under paragraph (b) of this sub-paragraph, the contribution calculated would not be extinguished by applying it in respect of the independent eligible student's statutory award, the remainder of the contribution is instead applied to the relevant statutory award of his or her partner if they are both old system students or if they are both new system students.

(2) Subject to sub-paragraph (3), there is added to a parent student's residual income for the purpose of

⁽¹⁾ 2003/1994

⁽²⁾ 1968 c.46.

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 Schedule.

(3) Where a parent student has a partner who is also an eligible student and whose income is taken into account in assessing the contribution in relation to the children in sub-paragraph (2), half of the sum calculated under sub-paragraph (2) is added to the parent student's residual income.