STATUTORY RULES OF NORTHERN IRELAND

2020 No. 79

EDUCATION

The Education (Student Support) (Amendment) Regulations (Northern Ireland) 2020

Made - - - -	*12th May 2020*
Coming into operation	*4th June 2020*

The Department for the Economy (**1**) in exercise of the powers conferred by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(**2**) and Articles 4(8) and 14(4) of the Higher Education (Northern Ireland) Order 2005(**3**) makes the following Regulations.

PART 1

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2020 and come into operation on 4th June 2020.

(2) The following regulations apply in relation to the provision of support to a student in relation to an academic year which begins on or after 1st August 2020, whether or not anything done under these regulations is done before, on, or after that date—

(a) regulation 13, 14 and 15 (removal of the yearly cap)

(b) regulation 18 and the Schedule (new payments relating to student support).

(3) The following regulations apply in relation to the provision of support to a student in relation to a course which begins on or after 1st August 2020 (the "current course"), whether or not anything done under these regulations is done before, on, or after that date—

(a) regulation 11 (qualification for childcare grant)

(**1**) Formerly the Department for Employment and Learning; *see* Article 6(1)(c) of the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76)

(**2**) S.I. 1998/1760 (N.I. 14). Article 3 was amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b), the Student Loans (Amendment) Act (Northern Ireland) 2001, (c.2 (N.I.)), s.1(1), the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, the Finance Act 2003, (c.14), s. 147(4), the Higher Education (Northern Ireland) Order 2005, (S.I. 2005/1116 (N.I. 5)), Articles 11 and 12 and the Schedule, and by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, (S.I. 2013/1881), Schedule 1

(**3**) S.I. 2005/1116 see Article (2) for definitions of "the Department", "prescribed" and "regulations".

(b) regulation 12 (master's degree students who have previously received a grant from the Welsh Government).

(4) In paragraph (2), an "academic year" is the period of twelve months beginning with 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins, according to whether the academic year of the course in question begins—

(a) on or after 1st January and before 1st April;

(b) on or after 1st April and before 1st July;

(c) on or after 1st July and before 1st August; or

(d) on or after 1st August and on or before 31st December.

PART 2

AMENDMENT OF THE EDUCATION (STUDENT SUPPORT) (No.2) REGULATIONS (NORTHERN IRELAND) 2009

Amendment of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009

2. The Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009(**4**) are amended in accordance with regulations 3 to 18.

Amendments relating to accelerated courses

3. In regulation 8(2)(**5**) (grounds for transfer of eligible status)—

(a) in sub-paragraph (a)(i) omit "which is not an accelerated course";

(b) in sub-paragraph (b)(i) omit "which is not an accelerated course".

Amendments relating to assessment of the residual income

4. In regulation 43(6)(**6**) (interpretation of chapter 4: calculation of eligible student's adult dependants' residual income), for "(8), (9) and (10)" substitute "(3)(b) and (c), (3A)(b) and (c), (8), (9) and (10)".

5. In Schedule 5(**7**) (financial assessment)—

(a) in paragraph 1(1)(n) (definition of "taxable income")—

(i) for "(3), (4) and (5)" substitute "(3) to (4A)";

(ii) after "prior financial year" insert "and in relation to paragraph 7, in respect (subject to sub-paragraphs (2) to (5) of paragraph 7) of the prior financial year";

(b) in paragraph 5 (calculation of parent's residual income)—

(i) for sub-paragraphs (3), (3A) and (4) substitute—

"(3) The Department may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain A's residual income for the financial

(**4**) S.R. 2009 No. 373, amended by S.R. 2010 No. 383, S.R. 2012 Nos. 62 and 398, S.R. 2013 Nos. 128 and 223, S.R. 2014 Nos. 97 and 309, S.R. 2016 No. 21, S.R. 2017 No. 7, S.R. 2017 No.43, S.R. 2018 No. 35, S.R. 2019 No.35 and S.R 2019 No. 102.
(**5**) Regulation 8(2) was amended by S.R. 2019 No.35.
(**6**) Regulation 43(6) was inserted by S.R. 2012 No. 398.
(**7**) Schedule 5 was amended by S.R.s 2010 No. 383, 2014 No. 309, 2016 No. 21 and 2017 No. 43.

year beginning immediately before the relevant year ("the current financial year") if the Department is satisfied that—

(a) where the eligible student's household income is determined by reference to the residual income of A alone, the residual income of A in the current financial year is likely to be not more than 95% of the sterling value of A's residual income in the prior financial year;

(b) where the eligible student's household income is determined by reference to the residual income of both parents, the aggregate of the residual incomes of A and the other parent in the current financial year is likely to be not more than 95% of the sterling value of the aggregate of the residual incomes of A and the other parent in the prior financial year; or

(c) where the eligible student's household income is determined by reference to the residual income of A and A's partner, the aggregate of the residual incomes of A and A's partner in the current financial year is likely to be not more than 95% of the sterling value of the aggregate of—

(i) the residual income of A in the prior financial year applicable to A; and

(ii) the residual income of A's partner in the prior financial year applicable to A's partner.

(3A) In the event that sub-paragraph (3) or this paragraph was applied in the previous academic year of the current course, the Department may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain A's residual income for the current financial year if the Department is satisfied that—

(a) where the eligible student's household income is determined by reference to the residual income of A alone, the residual income of A in the current financial year is likely to be not more than 95% of the sterling value of A's residual income in the previous financial year;

(b) where the eligible student's household income is determined by reference to the residual income of both parents, the aggregate of the residual incomes of A and the other parent in the current financial year is likely to be not more than 95% of the sterling value of the aggregate of the residual incomes of A and the other parent in the previous financial year; or

(c) where the eligible student's household income is determined by reference to the residual income of A and A's partner, the aggregate of the residual incomes of A and A's partner in the current financial year is likely to be not more than 95% of the sterling value of the aggregate of the residual incomes of A and A's partner in the previous financial year.

(4) In an academic year immediately following one in which the Department has ascertained A's residual income for the current financial year under sub-paragraph (3) or, where applicable, under sub-paragraph (3A), the Department must ascertain A's residual income in the preceding financial year.

(4A) In an academic year immediately following one in which the Department has ascertained A's residual income for the previous financial year under sub-paragraph (4), the Department must ascertain A's residual income in the prior financial year.";

(ii) in sub-paragraph (5), for "prior financial year", in the second place it occurs, substitute "financial year immediately preceding the preceding financial year";

(c) in paragraph 6 (calculation of eligible student's partner's residual income)—

(i) in sub-paragraph (1)—

(aa) for "(2), (3) and (4)" substitute "(2) and (3)";

(bb) before "income" insert "residual";

(cc) for "(8), (9) and (10)" substitute "(3)(b) and (c), (3A)(b) and (c), (8), (9) and (10)";

(ii) in sub-paragraph (2), before "income" in the first place if occurs, insert "residual";

(iii) in sub-paragraph (3), before "income" in each place it occurs, insert "residual";

(iv) omit sub-paragraph (4);

(d) for paragraph 7 (calculation of parent's partner's residual income) substitute—

"**Calculation of parent's partner's residual income**

7.—(1) For the purposes of determining the residual income of an eligible student's parent's partner ("P"), there is deducted from the taxable income of P the aggregate of any amounts falling within any of the following sub-paragraphs (unless already deducted in determining a person's taxable income)—

(a) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life assurance) in respect of which relief is given under section 188 of the Finance Act 2004(**8**), 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 (7), any sums equivalent to the deduction mentioned in paragraph (a) of this sub-paragraph, provided that any sums deducted do not exceed the deductions which would be made if the whole of P's income were in fact income for the purposes of the Income Tax Acts;

(c) where P is a parent student or P holds a statutory award, £1,153.

(2) The Department may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain P's residual income for the financial year beginning immediately before the relevant year ("the current financial year") if the Department is satisfied that the aggregate of the residual incomes of P and the eligible student's parent in the current financial year is likely to be not more than 95% of the sterling value of the aggregate of—

(a) the residual income of P in the prior financial year applicable to P; and

(b) the residual income of the eligible student's parent in the prior financial year applicable to the parent.

(3) In the event that sub-paragraph (2) or this paragraph was applied in the previous academic year of the current course, the Department may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain P's residual income for the current financial year if the Department is satisfied that the aggregate of the residual incomes of P and the eligible student's parent in the current financial year is likely to be not more than 95% of the sterling value

(**8**) 2004 c. 12. Section 188 was amended by paragraph 2 of Schedule 18 to, and paragraph 1 of Schedule 27 to, the Finance Act 2007 (c. 11), section 52 of the finance Act 2013 (c. 29), paragraph 13 of Schedule 7 to the Finance Act 2014 (c. 26)

of the aggregate of the residual incomes of P and the eligible student's parent in the previous financial year.

(4) In an academic year immediately following one in which the Department has ascertained P's residual income for the current financial year under sub-paragraph (2) or, where applicable, under sub-paragraph (3), the Department must ascertain P's residual income in the preceding financial year.

(5) In an academic year immediately following one in which the Department has ascertained P's residual income for the previous financial year under sub-paragraph (4), the Department must ascertain P's residual income in the prior financial year.

(6) Where P satisfies the Department that P's income is wholly or mainly derived from the profits of a business or profession carried on by P then any reference in this Schedule to a prior financial year in relation to P means the earliest period of twelve months which ends after the start of the financial year immediately preceding the preceding financial year and in respect of which accounts are kept relating to that business or profession.

(7) Where P is in receipt of any income which does not form part of P's income for the purpose of the Income Tax Acts or the income tax legislation of another Member State by reason only that—

(a) P is not resident or domiciled in the United Kingdom, or where P's income is computed as for the purposes of the income tax legislation of another Member State, not so resident or domiciled in that Member State;

(b) the income does not arise in the United Kingdom, or where P's income is computed 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 for which is exempt from tax in pursuance of any legislation,

P's taxable income for the purposes of this Schedule is computed as though the income under this sub-paragraph were part of P's income for the purpose of the Income Tax Acts or the income tax legislation of another Member State, as the case may be.

(8) Where P's income is computed as for the purposes of the income tax legislation of another Member State, it is computed under the provisions of this Schedule in the currency of that Member State and P's income for the purposes of this Schedule is the sterling value of that income determined in accordance with the average rate published by Her Majesty's Revenue and Customs for the calendar year which ends before the end of the prior financial year.

(9) Where the Department determines that P and the eligible student's parent are separated for the duration of the relevant year, P's residual income is not taken into account in determining the household income.

(10) Where the Department determines that P and the eligible student's parent have separated in the course of the relevant year, P's residual income is determined by reference to P's residual income under sub-paragraph (1) divided by 52 and multiplied by the number of complete weeks in the relevant year for which the Department determines that P and the eligible student's parent are not separated.".