STATUTORY RULES OF NORTHERN IRELAND

2009 No. 211

EDUCATION

The Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2009

Made - - - -	*20th May 2009*
Coming into operation	*1st September 2009*

The Department for Employment and Learning(**1**) makes the following Regulations in exercise of the powers conferred on it by Articles 3(2) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(**2**), and now vested in it(**3**):

Citation and commencement

1. These Regulations may be cited as the Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2009 and shall come into operation on 1st September 2009.

Interpretation

2. In these Regulations—

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

"the 1997 Order" means the Further Education (Northern Ireland) Order 1997(**4**);

"further education" has the meaning assigned by Article 3 of the 1997 Order;

"the Department" means the Department for Employment and Learning;

"designated course" means a course designated by regulation 5;

"higher education" has the meaning assigned by Article 2(2) of the 1997 Order;

"institution of further education" means an educational establishment which is recognised by the Department as an institution of further education under Article 8 of the 1997 Order;

"support" means financial support by way of grant made by the Department to an institution of further education pursuant to Regulations made by the Department under Article 3 of the Order.

(**1**) Formerly the Department of Higher and Further Education, Training and Employment; *see*2001 c. 15 (N.I.)
(**2**) S.I. 1998/1760 (N.I. 14)
(**3**) Article 5(b) and Part II of Schedule 3 to the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) (S.R. 1999 No. 481) transferred functions under the Education (Student Support) (Northern Ireland) Order 1998 from the Department of Education to the Department of Higher and Further Education, Training and Employment, now renamed the Department for Employment and Learning
(**4**) S.I. 1997/1772 (N.I. 15)

Application

3. These Regulations apply in relation to the provision of support in relation to the academic year which begins on or after 1st September 2009 and ends on 31st August 2010.

Eligible Students

4.—(1) A person is an eligible student in connection with a designated course if the Department determines that the person falls within one of the categories set out in Part 2 of the Schedule.

(2) A person ceases to be an eligible student if he abandons or is expelled from a designated course.

Designated courses

5. A course is a designated course for the purposes of Article 3(1) of the Order if it is—

(a) of at least one academic year's duration;

(b) a further education course or a higher education course; and

(c) wholly provided by an institution of further education in Northern Ireland.

Applying for support and provision of information

6.—(1) An institution of further education shall apply for support in respect of each eligible student on a designated course by completing and submitting to the Department such documentation as the Department may require.

(2) The Department may take such steps and make such inquiries as it considers necessary to determine whether an application for support is in respect of an eligible student.

(3) If the Department is satisfied that an institution of further education has failed to comply with any requirement to provide information under these Regulations or has provided information which is incomplete or inaccurate in a material particular, the Department may—

(a) determine that the institution no longer qualifies for any particular support or particular amount of support; and

(b) treat any support paid to the institution as an overpayment which may be recovered by such means as the Department considers appropriate.

Payments

7.—(1) Support shall not be paid to an institution of further education until the Department has received a valid request for payment from the institution.

(2) If the Department is satisfied that an application for support is valid for an eligible student on a designated course, then the Department will provide support to the institution of such amounts as it considers appropriate.

(3) Any amount payable under paragraph (2) may be paid in such instalments as the Department considers appropriate.

Revocation

8. The Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2008(**5**) are revoked.

(**5**) S.R. 2008 No. 324

Sealed with the Official Seal of the Department for Employment and Learning on 20th May 2009.



[Sir Reg Empey]
Minister for Employment and Learning

SCHEDULE Regulation 4

ELIGIBLE STUDENTS

PART 1

Interpretation

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

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**6**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**7**);

"EEA frontier worker" means an EEA national who—

(a) is a worker in Northern Ireland; and

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

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

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

"European Economic Area" means the area comprised by the EEA States;

"family member" unless otherwise indicated, means—

(c) in relation to an EEA frontier worker or an EEA migrant worker—

(i) his spouse or civil partner;

(ii) his child or the child of his spouse or civil partner; or

(iii) dependent direct relatives in his ascending line or that of his spouse or civil partner;

(d) in relation to a Swiss worker—

(i) his spouse or civil partner; or

(ii) his child or the child of his spouse or civil partner;

(e) in relation to an EC national who falls within Article 7(1)(c) of Directive 2004/38(**8**)—

(i) his spouse or civil partner; or

(ii) direct descendants of his or of his spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependants of his or his spouse or civil partner;

(f) in relation to an EC national who falls within the meaning of Article 7(1)(b) of Directive 2004/38—

(i) his spouse or civil partner;

(ii) direct descendants of his or of his spouse or civil partner who are—

(aa) under the age of 21; or

(bb) dependants of his or his spouse or civil partner; or

(**6**) Cm. 2073
(**7**) Cm. 2183
(**8**) Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States