STATUTORY RULES OF NORTHERN IRELAND

2007 No. 363

EDUCATION

The Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2007

Made - - - -	*22nd August 2007*
Coming into operation-	*21st September 2007*

The Department for Employment and Learning(**1**) makes the following Regulations in exercise of the powers conferred by Articles 3 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 Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2007 and shall come into operation on 21st September 2007.

Interpretation

2. In these Regulations "the principal Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2007(**4**).

Amendment of the principal Regulations

3. The principal Regulations shall be amended as provided by regulations 4 to 24.

4. In regulation 2 (Interpretation) the following definitions shall be inserted—

(a) after the definition of "current course", there shall be inserted—

> ""current distance learning course" means the designated distance learning course in respect of which a person is applying for support;";

(b) after the definition of "designated course", there shall be inserted—

> ""designated distance learning course" means a course designated by the Department under regulation 107C;";

(**1**) Formerly known as the Department of Higher and Further Education, Training and Employment; *see* the Department for Employment and Learning Act (Northern Ireland) 2001 c.15
(**2**) S.I. 1998/1760 (N.I. 14) as amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b)
(**3**) S.R. 1999 No. 481*see* Article 5(b) and Schedule 3 Part II
(**4**) S.R. 2007 No. 195 as amended by S.R. 2007 No. 293

(c) after the definition of "designated postgraduate course", there shall be inserted—

""disabled distance learning students' allowance" means the grant payable under regulation 107H;";

(d) after the definition of "electronic signature", there shall be inserted—

""eligible distance learning student" has the meaning given in regulation 107A;";

(e) in the definition of "period of eligibility" after "eligible student,", insert "in regulation 107D in relation to an eligible distance learning student,".

5.—(1) Regulation 5 (Designated courses) shall be amended as provided by paragraphs (2) and (3).

(2) After paragraph (6)(a), there shall be inserted—

"(aa) a designated course and a designated distance learning course;".

(3) For paragraph (11), there shall be substituted—

"(11) Where—

(a) the Department determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was—

(i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he is applying for support.";

(a) for paragraph (12), there shall be substituted—

"(12) Where—

(a) the Department determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was—

(i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he is applying for support.".

6.—(1) Regulation 6 (Period of eligibility) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)—

(i) for "paragraphs (2) and (3)", there shall be substituted "paragraphs (2), (3) and (3A)";

(ii) after sub-paragraph (b), there shall be inserted—

"(bb) not designated under regulation 107C;".

(3) After paragraph (3), there shall be inserted—

"(3A) Paragraph (1)(bb) does not apply where the person applying for support in connection with the course is—

(a) a disabled student; and

(b) undertaking that course in the United Kingdom but not in attendance because he is unable to attend for a reason which relates to his disability.".

7. In regulation 7(4)(a) (Transfer of status) after "regulation 8", there shall be inserted ", regulation 107M, regulation 107N".

8.—(1) Regulation 30 (Availability of fee contribution loans to old system students) shall be amended as provided by paragraphs (2) and (3).

(2) For paragraph (5), there shall be substituted—

"(5) In the case of a designated course at Heythrop College, the amount of grant for fees in respect of an academic year is the lesser of—

(a) £2,195; and

(b) the fees payable by the student in connection with that year.".

(3) for paragraph (6), there shall be substituted—

"(6) 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 the lesser of—

(a) £4,455; and

(b) the fees payable by the student in connection with that year.".

9.—(1) Regulation 35 (New system students) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1) after "compressed degree course", there shall be inserted "or a designated distance learning course".

(3) In paragraph (2)(b) after "attendance on", there shall be inserted "or, in the case of a designated distance learning course, undertaking".

10. After regulation 39 (6)(e)(ii) (General qualifying conditions for grants for living and other costs), there shall be inserted—

"(iia) a special agency established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(**5**)."

11. After regulation 40(1)(a) (Grants for students who have left care), there shall be inserted—

"(aa) disabled students' allowance;".

12. For regulation 41 (General), there shall be substituted—

"**41.** An eligible student qualifies for a grant to assist with the additional expenditure which the Department is satisfied that he is obliged to incur in connection with his attendance on a designated course by reason of a disability to which he is subject.".

13. In regulation 42(4)(a) (Adult dependants' grant) for "undertakes", there shall be substituted "attends".

14.—(1) Regulation 49(1) (Qualifying conditions for the maintenance grant) shall be amended as provided by paragraphs (2) to (5).

(2) At the beginning of sub-paragraph (a), there shall be inserted "subject to sub-paragraph (m),".

(3) After sub-paragraph (d), there shall be inserted—

"(da) "dependent child" means, in relation to an eligible student, a child dependent on the student;".

(4) In sub-paragraph (g) for "and (k)", there shall be substituted ", (k) and (l)".

(5) after sub-paragraph (k), there shall be inserted—

"(l) for the purposes of determining whether a person is the former partner of an eligible student's partner, "partner" in relation to an eligible student's partner means—

(i) the spouse of an eligible student's partner;

(ii) the civil partner of an eligible student's partner;

(iii) where the eligible student began the specified designated course on or after 1st September 2000, a person ordinarily living with an eligible student's partner as if he were his spouse;

(iv) where the eligible student began the specified designated course on or after 1st September 2005, a person ordinarily living with an eligible student's partner as if he were his civil partner;

(m) subject to sub-paragraph (n), for the purposes of the definitions of "adult dependant" and "dependent child", the Department may treat an adult person or child as dependent on an eligible student if it is satisfied that the adult person or child—

(i) is not dependent on—

(aa) the eligible student; or

(bb) his partner; but

(ii) is dependent on the eligible student and his partner together.

(n) the Department must not treat an adult person ("A") as dependent on an eligible student in accordance with sub-paragraph (m), if A is—

(**5**) S.I. 1990 No. 247 (N.I. 3)

(i) the spouse or civil partner of the eligible student's partner (including a spouse or civil partner from whom the Department considers the eligible student's partner is separated); or

(ii) the former partner of the eligible student's partner.".

15. In regulation 63(2)(b) (Qualifying conditions for the loan for living costs – current system students), after the word "worker", there shall be inserted "at a relevant institution in Northern Ireland;".

16. In regulation 64(3)(b) (Qualifying conditions for the loan for living costs – old system students), after the word "worker", there shall be inserted "at a relevant institution in Northern Ireland;".

17. After regulation 107 (Interpretation), there shall be inserted—

"PART 10A

SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES

Eligible distance learning students

107A.—(1) An eligible distance learning student qualifies for support in connection with his undertaking a designated distance learning course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible distance learning student in connection with a designated distance learning course if in assessing his application for support the Department determines that the person falls within one of the categories set out in Part 2 of Schedule 2.

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

(a) subject to paragraph (4), there has been made to him or paid to him in connection with the distance learning course—

(i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to his income;

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992; or

(iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income;

(b) he is in breach of any obligation to repay any loan;

(c) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18;

(d) he has, in the opinion of the Department, shown himself by his conduct to be unfitted to receive support; or

(e) subject to paragraph (5), he is a prisoner serving a custodial sentence.

(4) Paragraph (3)(a) does not apply if—

(a) the person applying for support is a disabled student; and

(b) there has been made to him or paid to him in connection with the distance learning course—