STATUTORY RULES OF NORTHERN IRELAND

2007 No. 328

EDUCATION

The Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007

Made - - - -	*5th July 2007*
Coming into operation	*1st September 2007*

The Department for Employment and Learning, in exercise of the powers conferred by Articles 4(8) and 14(4) of the Higher Education (Northern Ireland) Order 2005(**1**) makes the following Regulations.

Citation, commencement and interpretation

1. These Regulations may be cited as the Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007 and shall come into operation on 1st September 2007.

2. In these Regulations—

"the Order" means the Higher Education (Northern Ireland) Order 2005;

"the Student Support Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2007(**2**);

"course for the initial training of teachers" includes such a course leading to a first degree;

"previous Regulations" has the meaning given in regulation 2 (1) of the Student Support Regulations;

"publicly-funded" has the meaning given in regulation 2 (1) of the Student Support Regulations;

"single course" means a course to which regulation 6(4) of the Student Support Regulations applies and which falls within the description of a course in that regulation.

Revocation

3. The Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2006(**3**) are revoked.

(**1**) S.I. 2005/1116 (N.I. 5)*see* Article (2) for definitions of "the Department", "prescribed" and "regulations"
(**2**) S.R. 2007 No. 195
(**3**) S.R. 2006 No. 384

Prescribed description of a qualifying course

4.—(1) A qualifying course which is prescribed for the purposes of Article 4 of the Order is a course of higher education which, subject to paragraph (3), is a course which is designated for the purposes of Article 3 of the Education (Student Support) (Northern Ireland) Order 1998(**4**) on the first day of an academic year which begins during the grant period and is provided by an institution in Northern Ireland.

(2) For the purposes of paragraph (1) the reference to an institution in Northern Ireland means an institution whose activities are carried out in Northern Ireland.

(3) A course is not a qualifying course if at the time the qualifying person received an offer of a place on that course the institution providing it was not publicly-funded.

Prescribed description of a qualifying person

5.—(1) A qualifying person who is prescribed for the purposes of Article 4 of the Order is a person who falls within the Schedule on the first day of an academic year which begins during the grant period, other than—

(a) a person who is not eligible for support under the Student Support Regulations by reason of regulation 5(3)(c), (d), (e), (f) or (g) of those Regulations, or

(b) a person mentioned in paragraph (2) or (6).

(2) Subject to the exception in paragraphs (3) to (5), a person is not a qualifying person if—

(a) he has an honours degree from an institution in the United Kingdom; or

(b) he has an honours degree from an institution in the Republic of Ireland,

for which he received financial support under previous Regulations for some or all of the academic years during which he took the course leading to the award of the honours degree.

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

(a) the qualifying course is a course for the initial training of teachers;

(b) the duration of the course does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent); and

(c) the qualifying person is not a qualified teacher.

(4) Paragraph (2) does not apply in respect of any part of a single course where—

(a) the single course leads to an honours degree being conferred on the qualifying person from an institution in the United Kingdom or a relevant institution of higher education in the Republic of Ireland before the final degree or equivalent qualification; and

(b) the qualifying person only has an honours degree which was received as part of that single course.

(5) Paragraph (2) does not apply where the qualifying course is a course leading to a degree in social work at an educational institution in Northern Ireland

(6) Where an event occurs in the course of an academic year and as a result a person falls within the Schedule in the course of an academic year, he is not a qualifying person in respect of the academic year in which the relevant event occurred or any previous academic year.

(7) In this regulation "a relevant institution of higher education in the Republic of Ireland" means an institution listed in Schedule 6 to the Student Support Regulations.

(**4**) S.I. 1998/1760 (N.I. 14) as amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b) and the Higher Education (Northern Ireland) Order 2005 (S.I. 2005/1116 (N.I. 5))

Transitional Cases

6.—(1) Where a qualifying person, disregarding any intervening vacation, begins an end-on course within the meaning of regulation 2(1) of the Education (Student Support) Regulations (Northern Ireland) 2006(**5**) immediately after a qualifying course ("the relevant course") in a case where paragraph (3) or (4) applies, the end-on course shall be treated as if the offer for it had been received on the same date as the offer for the relevant course.

(2) In a case where paragraph (3) or (4) applies, where a qualifying person undertakes a qualifying course ("the relevant course") which is a single course, an offer received for any part of the relevant course shall be treated as if it had been received on the same date as the offer for the first part of the relevant course.

(3) This paragraph applies where—

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

(b) the first academic year of the relevant course begins before 1st September 2007.

(4) This paragraph applies where—

(a) the qualifying person had received an offer of a place on a qualifying course (whether or not at the same institution as the relevant course) the first academic year of which began before 1st September 2006,

(b) he was unable to take up the offer because a specified qualification or grade was not awarded to him,

(c) he appealed against the decision not to award him the qualification or grade,

(d) the appeal was allowed after the last date on which he could have taken up the offer,

(e) as a result he was offered a place on the relevant course, and

(f) the first academic year of the relevant course begins after 31st August 2006 but before 1st September 2007.

(5) For the purpose of paragraph (3)(a) a course ("the original course") is similar to the relevant course if—

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

(**5**) S.R. 2006 No.312, to which there are amendments not relevant to these Regulations

Sealed with the Official Seal of the Department for Employment and Learning on 5th July 2007



Sir Reg Empey MLA
Minister for Employment and Learning

SCHEDULE

Regulation 5 (1) and (6)

QUALIFYING PERSONS

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

"academic year" means the period of twelve months beginning on 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 that academic year begins on or after 1st January and before 1st April, on or after 1st April and before 1st July, on or after 1st July and before 1st August or on or after 1st August and on or before 31st December, respectively;

"Directive 2004/38" means Directive 2004/38/EC of the European Parliament and of the Council of 29th April 2004(**6**) 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(**7**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**8**);

"EEA frontier self-employed person" means an EEA national who—

(a) is a self-employed person in the United Kingdom; 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 daily or at least once a week;

"EEA frontier worker" means an EEA national who—

(a) is a worker in the United Kingdom; 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 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;

"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;

"employed person" means an employed person with the meaning of Annex 1 to the Swiss Agreement;

"employment" means full-time or part-time employment;

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

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

"family member" means—

(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 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;

(**6**) OJ L158, 30.4.2004, p77-123
(**7**) Cmnd 2073
(**8**) Cmnd 2183