STATUTORY RULES OF NORTHERN IRELAND

2006 No. 378

EDUCATION

Students Awards (Amendment) Regulations (Northern Ireland) 2006

Made - - - - 15th September 2006

Coming into operation in accordance with regulation 2

The Department for Employment and Learning(**1**), in exercise of the powers conferred by Articles 50(1) and (2) and 134(1)(**2**) of the Education and Libraries (Northern Ireland) Order 1986(**3**) and now vested in it(**4**) makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Students Awards (Amendment) Regulations (Northern Ireland) 2006.

2.—(1) Except as provided for by paragraph (2) these Regulations shall come into operation on 30th April 2006.

(2) Regulations 4(b), (e), (g) and (h), 6(8) to (10), 11 and 14 shall come into operation on 1st September 2006.

3. In these Regulations, "the principal Regulations" means the Students Awards Regulations (Northern Ireland) 2003(**5**).

Revocations

4. The following provisions of the Students Awards (Amendment) Regulations (Northern Ireland) 2005(**6**) are revoked—

(a) regulation 5(3) and (5);

(**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**) As amended by S.I. 1993/2810 (N.I. 12): Article 50 and Schedule 4 Part II
(**3**) S.I. 1986/594 (N.I. 3): Article 50(1) and (2) was repealed by Article 9 of, and the Schedule to, the Education (Student Support) (Northern Ireland) Order 1998, (S.I. 1998/1760 (N.I. 14)), subject to the transitional and saving provisions in Part II of the Education (Student Support) (Northern Ireland) Order 1998 (Commencement No. 2 and Transitional Provisions) Order (Northern Ireland) 1998, (S.R. 1998 No. 460 (c. 22))
(**4**) S.R. 1999 No. 481 Article 5(b) and Schedule 3 Part II
(**5**) S.R. 2003 No. 459 as amended by S.R. 2004 No. 395 and S.R. 2005 No. 466
(**6**) S.R. 2005 No. 466

(b) regulation 5(7) to (9);

(c) regulation 6;

(d) regulation 7;

(e) regulation 10;

(f) regulation 12(2)(b);

(g) regulation 15; and

(h) Schedule 1.

Amendment of the principal Regulations

5. The principal Regulations shall be amended as provided by regulations 6 to 15.

6.—(1) Regulation 2 (Interpretation) shall be amended as provided by paragraphs (2) to (11).

(2) For the definition of "category 2 European Student" there shall be substituted—

""category 2 European student" means a person who falls within paragraph 10 of Part 2 of Schedule 10;".

(3) After the definition of "Certificate in Education" there shall be inserted—

""Community Right student" means—

(a) a person who falls within paragraph 6 of Part 2 of Schedule 10 by virtue of being—

(i) an EEA self-employed person, an EEA frontier worker or an EEA frontier self-employed person;

(ii) a family member of a person mentioned in paragraph (i);

(iii) a dependent relative in the ascending line of an EEA migrant worker or the spouse or civil partner of such a worker;

(iv) a Swiss self-employed person, a Swiss frontier employed person or a Swiss frontier self-employed person; or

(v) a family member of a person mentioned in paragraph (iv);

(b) a person who falls within paragraph 11 of Part 2 of Schedule 10; or

(c) a person who falls within paragraph 8 of Part 2 of Schedule 10;".

(4) After the definition of "dependent" there shall be inserted—

""Directive student" means—

(a) a person who falls within paragraph 3 of Part 2 of Schedule 10; or

(b) a person who is a European student by virtue of being a family member of an EC national;".

(5) The definition of "EEA migrant worker" shall be omitted.

(6) In the definition of "European Economic Area" the words from "provided that any area" to the end of the definition shall be omitted.

(7) For the definition of "European student" there shall be substituted—

""European student" means a person who falls within paragraph 9 of Part 2 of Schedule 10 and not within any other paragraph of that Part of Schedule 10;".

(8) In the definition of "new academic term" for "2005" there shall be substituted "2006".

(9) For the definition of "new payment" there shall be substituted—

""new payment" means a payment made under these Regulations as amended by the Students Awards (Amendment) Regulations (Northern Ireland) 2004, the Students Awards (Amendment) Regulations (Northern Ireland) 2005 and the Students Awards (Amendment) Regulations (Northern Ireland) 2006;".

(10) For the definition of "old payment" there shall be substituted—

""old payment" means a payment which would have been made under these Regulations, as amended by the Student Awards (Amendment) Regulations (Northern Ireland) 2004 and the Students Awards (Amendment) Regulations (Northern Ireland) 2005, if they had not been amended by the Students Awards (Amendment) Regulations (Northern Ireland) 2006;".

(11) In the definition of "refugee" the words from "and any reference" to the end of the definition shall be omitted.

7.—(1) Regulation 6 (Ordinarily resident) shall be amended as provided by paragraphs (2) and (3).

(2) Paragraph (1) shall be omitted

(3) For paragraphs (2), (4) and (5) there shall be substituted—

"(2) A board is not under a duty to make an award in respect of a person's attendance at a course if in the opinion of the board—

(a) that person does not fall within one of the categories in Part 2 of Schedule 10; or

(b) that person has shown himself by his conduct to be unfitted to receive an award."

8. In regulation 9 (Terms and Conditions) in paragraph (2)(a) and (b) for "2004" in each place where it occurs, there shall be substituted "2005".

9.—(1) Regulation 16 (Reduced entitlement to payments) shall be amended as provided by paragraphs (2) and (3).

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

"(5) Where a board has come under a duty to make an award to a person during an academic year because—

(a) he has become—

(i) a European student as a result of—

(aa) the accession of the State of which he is a national, or as the case may be, of which his family member (within the meaning of Part 1 of Schedule 10) is a national, to the European Community; or

(bb) becoming the family member (within the meaning of Part 1 of Schedule 10) of an EC national;

(ii) a refugee or the spouse, civil partner, child or a refugee;

(iii) a person described in paragraph 6(1)(a) of Part 2 of Schedule 10;

(iv) the child of a Swiss national; or

(b) he has acquired the right of permanent residence within the meaning of Part 1 of Schedule 10,

it shall deduct from the sums and grant payable in respect of that year in pursuance of the award under regulation 10 the amounts referred to in paragraph (7)."

(3) For paragraph (7)(a) there shall be substituted—

"(a) from the sum payable in respect of fees under regulation 10 any amount payable before the date on which—

(i) the student became a European student;

(ii) the relevant person was recognised as a refugee;

(iii) the student acquired the right of permanent residence;

(iv) the student became a person described in paragraph 6(1)(a) of Part 2 of Schedule 10; or

(v) the student became the child of a Swiss national;".

10.—(1) Schedule 1 (Persons) shall be amended as provided by paragraphs (2) and (3).

(2) For sub-paragraph (b) of paragraph 1 of Part I there shall be substituted—

"(b) who falls within one of the categories in Part 2 of Schedule 10; and"

(3) In paragraph 2 of Part II sub-paragraphs (a) and (b) shall be omitted and sub-paragraphs (c) and (d) shall be re-numbered accordingly.

11.—(1) In Schedule 3 (Terms and Conditions), after paragraph 2(2)(dd) there shall be inserted—

"(de) in the case of a Directive student who—

(i) started a designated course on or before 30th April 2006; and

(ii) is applying for an award in respect of that course,

where the application reaches the board by 15th January 2007;

(df) in the case of a Community Right Student who—

(i) started a designated course on or after 1st September 2005 but on or before 30th April 2006; and

(ii) is applying for an award in respect of that course,

where the application reaches the board by 15th January 2007;

(dg) in the case of a person who—

(i) acquires the right of permanent residence as defined in Part 1 of Schedule 10;

(ii) becomes a person described in paragraph 6(1)(a) of Part 2 of Schedule 10;

(iii) becomes a family member of an EC national; or

(iv) becomes the child of a Swiss national,

where the application reaches the board not later than four months after the date on which he acquired that right or status;".

12. In Schedule 5 (Fees), for paragraph (iv) there shall be substituted—

"(iv) in the case of a course at the University of Buckingham, £2,840 payable in four equal instalments of £710; in the case of a course at the Guildhall School of Music, £4,355 payable in three instalments of £1,452, £1,452 and £1,451; and in the case of a course at Heythrop College, £2,415 payable in three equal instalments of £715;".

13.—(1) Schedule 7 (Resources) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph 1(3) of Part 1 for "or a category 2 European student", there shall be substituted ", a category 2 European student, a Community right student or a Directive student".

(3) In paragraph 4(4) of Part II for "the Education (Student Support) Regulations (Northern Ireland) 2005", there shall be substituted "the Education (Student Support) Regulations (Northern Ireland) 2006(**7**)".

(**7**) S.R. 2006 No.

14. After Schedule 9, there shall be added—

"SCHEDULE 10 Regulations 6 and 16 and Schedule 1

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(**8**) 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 frontier self-employed person" means an EEA national who—

(a) is self-employed 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 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;

"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 Switzerland Agreement;

"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;

(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 spouse or civil partner; or

(**8**) OJ L158, 30.04.2004, p77-123.