STATUTORY RULES OF NORTHERN IRELAND

2006 No. 307

EDUCATION

The Education (Student Loans) (Amendment) Regulations (Northern Ireland) 2006

Made - - - -	*17th July 2006*
Coming into operation	*1st August 2006*

The Department for Employment and Learning(**1**), in exercise of the powers conferred by Article 3(5) of and paragraph 1(1) of Schedule 2 to the Education (Student Loans) (Northern Ireland) Order 1990(**2**) and now vested in it(**3**) makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Education (Student Loans) (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 1st August 2006.

2. In these Regulations "the principal Regulations" means the Education (Student Loans) Regulations (Northern Ireland) 1998(**4**).

Revocations

3. Regulation 4 of the Education (Student Loans) (Amendment) Regulations (Northern Ireland) 2005(**5**) is revoked.

4. The following provisions of the Education (Student Loans) (Amendment) (No.2) Regulations (Northern Ireland) 2005(**6**) are revoked—

(a) regulation 7; and

(**1**) Formerly known as the Department of Higher and Further Education, Training and Employment; *see*S.I. 1999/283 (N.I. 1) and the Department for Employment and Learning Act (Northern Ireland) 2001 c. 15

(**2**) S.I. 1990/1506(N.I. 11); as amended by S.I. 1996/274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6. The entire Order was repealed by the Education (Student Support) (Northern Ireland) Order 1998 S.I. 1998/1760 (N.I. 14), Article 9 and the Schedule. This repeal is subject to transitional and saving provisions in the Education (Student Support) (Northern Ireland) Order 1998 (Commencement and Transitional Provisions) Order (Northern Ireland) 1998 S.R. 1998 No. 306. The saving provisions include provision for making subordinate legislation after the date of repeal.

(**3**) S.R. 1999 No. 481, Article 5(b) and Schedule 3 Part II

(**4**) S.R. 1998 No. 58 as amended by S.R. 1998 No. 262, S.R. 1998 No. 303, S.R. 1999 No. 343, S.R. 2000 No. 244, S.R. 2001 No.276, S.R. 2002 No. 241, S.R. 2003 No. 340, S.R. 2004 No. 305, S.R. 2005 No. 351 and S.R. 2005 No. 435

(**5**) S.R. 2005 No. 351

(**6**) S.R. 2005 No. 435

(b) regulation 8(2) and (3).

Amendment of the Principal Regulations

5. The principal Regulations shall be amended as provided by regulations 6 to 11.

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

(2) In paragraph (1)—

(a) before the definition of "accelerated course", there shall be inserted—

""2005 loan" means a loan the maximum amount of which is the maximum amount that would have been payable under these Regulations had they not been amended by the Education (Student Loans) (Amendment) Regulations (Northern Ireland) 2006;

"2006 academic year" means an academic year beginning on or after 1st August 2006 but before 1st July 2007;",;

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

""Community Right student" means—

(a) a person falling within paragraph 3 of Part 2 of Schedule 1;

(b) a person falling within paragraph 6 of Part 2 of Schedule 1 by virtue of being—

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

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

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

(c) a person falling within paragraph 8 of Part 2 of Schedule 1;"; and

(c) the definition of "EEA migrant worker" shall be omitted.

(3) Paragraphs (4), (5) and (6) shall be omitted.

7.—(1) Regulation 4(**7**) (Conditions of eligibility) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraphs (1A) and (1B) for "6A" wherever it appears, there shall be substituted "9".

(3) After paragraph (1C), there shall be inserted—

"(1D) Subject to paragraphs (1G) and (2), a person shall be eligible for a 2005 loan in relation to a new academic year if he—

(a) is either attending, or attended throughout the new academic year, a course which is—

(i) a full-time course; or

(ii) a full-time or a part-time course for the initial training of teachers which is designated by the Department

(b) is a Community Right student; and

(c) has entered into an agreement for a loan—

(**7**) As amended by regulation 5 of S.R. 2005 No. 435

(i) in the case of a person who will—

(aa) complete the course referred to in sub-paragraph (a) during the new academic year; and

(bb) not attend a further course of study in the 2006 academic year,

before the final day of the course referred to in sub-paragraph (a); or

(ii) in the case of a person who will—

(aa) continue to attend the course referred to in sub-paragraph (a) in the 2006 academic year; or

(bb) attend a further course of study in the 2006 academic year,

before 30th April 2007.

(1E) For the purposes of paragraph (1D)(b), the references to "the course" in the relevant paragraphs of Part 2 of Schedule 1 are to be treated as references to the course referred to in paragraph (1D)(a)(i) or (ii).

(1F) For the purposes of paragraph (1D)(c)(i)(bb) and (ii)(bb), "further course of study" means a further course of study which is a full-time or a part-time course for the initial training of teachers which is designated by the Department.

(1G) Paragraph (1D) shall not apply in the case of a person who would have been eligible for a loan under paragraph (1) before 30th April 2006.".

8.—(1) Regulation 6 (Amounts of loans) shall be amended as provided by paragraph (2).

(2) In paragraphs (1) to (4), for each of the figures in the first column, wherever it appears, there shall be substituted the corresponding figure in the second column below—

First column (£)	*Second column (£)*
1,155	1,185
1,855	1,900
1,575	1,615
2,540	2,605
1,505	1,540
2,055	2,105

9. For regulation 7 (Terms of loans), for paragraph (1) there shall be substituted—

"(1) Every agreement for a loan made on or after 30th April 2006 shall include the terms set out in Part 1 of Schedule 2.".

10. For Schedule 1 (Eligible Students), there shall be substituted—

"SCHEDULE 1 Regulation 4

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

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

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

(c) in relation to an EC national who is not self-sufficient—

(i) his spouse or civil partner; or

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

(aa) under the age of 21; or

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

(d) in relation to an EC national who is self-sufficient—

(i) his spouse or civil partner;

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

(aa) under the age of 21; or

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

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

(e) in relation to a United Kingdom national, for the purposes of paragraph 9—

(i) his spouse or civil partner; or

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

(aa) under the age of 21; or

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

"person with leave to enter or remain" means a person who—

(a) either—

(i) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom; or

(ii) before 1st July 1993 applied to the Secretary of State for the Home Department for recognition as a refugee and who has been informed by a person acting under the authority of that Secretary of State that it is thought right to allow him to enter or remain in the United Kingdom;

(b) has been granted leave to enter or remain accordingly; and

(c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remain;

"right of permanent residence" means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

"self-employed person" means—

(a) in relation to an EEA national, a person who is self-employed within the meaning of Article 7 of Directive 2004/38; or

(b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Switzerland Agreement;

"self-sufficient" means self-sufficient within the meaning of Article 7(1)(b) of Directive 2004/38;

"settled" has the meaning given by section 33(2A) of the Immigration Act 1971(**9**);

(**9**) 1971 c. 77; section 33(2A) was inserted by paragraph 7 of Schedule 4 to the British Nationality Act 1981 (c. 61).