STATUTORY RULES OF NORTHERN IRELAND

2005 No. 340

EDUCATION

The Education (Student Support) Regulations (Northern Ireland) 2005

Made - - - -	*18th July 2005*
Coming into operation	*1st September 2005*

The Department for Employment and Learning(**1**), 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**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Student Support) Regulations (Northern Ireland) 2005 and shall come into operation on 1st September 2005.

Interpretation

2.—(1) In these Regulations—

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

"the 1986 Order" means the Education and Libraries Order 1986(**4**);

"the 1998 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 1998(**5**);

(**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. 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))
(**3**) S.R. 1999 No. 481*see* Article 5(b) and Schedule 3 Part II
(**4**) S.I. 1986/594 (N.I. 3)
(**5**) S.R. 1998 No. 298

"the 1999 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 1999(**6**);

"the 2000 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2000(**7**);

"the 2001 Regulations" means the Education (Student Support) Regulations 2001 (Northern Ireland)(**8**);

"the 2002 Regulations" means the Education (Student Support) Regulations 2002 (Northern Ireland)(**9**);

"the 2003 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 2003(**10**);

"the 2004 Regulations" means the 2003 Regulations as amended by the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2004(**11**), the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2004(**12**), the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2005(**13**) and the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2005(**14**);

"academic authority" means, in relation to an institution, the governing body, or other body having the functions of a governing body and includes a person acting with the authority of that body;

"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;

"accelerated course" means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration;

"borrower" means a person to whom a loan has been made;

"contribution" means an eligible student's contribution calculated in accordance with regulation 29 and Schedule 5;

"Department" means the Department for Employment and Learning;

"designated course" means a course designated by regulation 5 or by the Department under regulation 5;

"designated part-time course" means a course designated by regulation 35 or by the Department under regulation 35;

"designated postgraduate course" means a course designated by regulation 47 or by the Department under regulation 47;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**15**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**16**);

(**6**) S.R. 1999 No. 192, as amended by S.R. 1999 No. 370
(**7**) S.R. 2000 No. 213, as amended by S.R. 2000 No. 254 and S.R. 2000 No. 296
(**8**) S.R. 2001 No. 277
(**9**) S.R. 2002, as amended by S.R. 2003 No. 121
(**10**) S.R. 2003 No. 298, as amended by S.R. 2003 No. 239
(**11**) S.R. 2004 No. 254
(**12**) S.R. 2004 No. 517
(**13**) S.R. 2005 No. 298
(**14**) S.R. 2005 No. 323
(**15**) Cmnd. 2073
(**16**) Cmnd. 2183

"EEA migrant worker" has the meaning given in paragraph (5);

"electronic signature" is so much of anything in electronic form as—

(a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and

(b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

"eligible part-time student" has the meaning given in regulation 34;

"eligible postgraduate student" has the meaning given in regulation 46;

"eligible student" has the meaning given in regulation 4;

"end-on course" means—

(a) a course mentioned in paragraph 1 of Schedule 3 which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a course mentioned in paragraph 2 or 3 of Schedule 3 for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003 or 2004 Regulations; or

(b) a course mentioned in paragraph 4 of Schedule 3 the duration of which does not exceed two years (the duration of a part-time course being expressed as its full-time equivalent) which, disregarding any intervening vacation, a student begins to attend immediately after ceasing to attend a course mentioned in paragraph 1 or 4 of Schedule 3 (provided that the course in paragraph 4 was a course leading to a first degree) for which the student received or was entitled to receive a transitional award, a loan under the 1998 Regulations or support under the 1999, 2000, 2001, 2002, 2003 or 2004 Regulations;

"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 European Community and the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

"flexible postgraduate ITT course" means a postgraduate course of initial teacher training, the length and pattern of which is determined by reference to the eligible student's experience and training requirements and which has been approved by the Teacher Training Agency(**17**);

"former Metropolitan Police District" means—

(a) Greater London, excluding the city of London, the Inner Temple and the Middle Temple;

(b) in the county of Essex, in the district of Epping Forest—

the area of the former urban district of Chigwell,

the parish of Waltham Abbey;

(c) in the county of Hertfordshire—

in the borough of Broxbourne, the area of the former urban district of Cheshunt,

the district of Hertsmere,

in the district of Welwyn Hatfield, the parish of Northaw; and

(d) in the county of Surrey—

in the borough of Elmbridge, the area of the former urban district of Esher,

the boroughs of Epsom and Ewell and Spelthorne,

(**17**) The Teacher Training Agency was established under section 1 of the Education Act 1994 (c. 30)

in the district of Reigate and Banstead, the area of the former urban district of Banstead;

"higher education course" means a course referred to in Schedule 3 or a postgraduate or other course the standard of which is higher than the standard of a first degree course;

"Islands" means the Channel Islands and the Isle of Man;

"loan", except where otherwise indicated, means a loan towards a student's maintenance in accordance with any Regulations made under Article 3 of the Order, including the interest accrued on the loan and any penalties or charges incurred in connection with it;

"old award" is an award within the meaning of the Education (Students Awards) Regulations (Northern Ireland) 2003(**18**);

"periods of work experience" means—

(a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside that institution;

(b) periods during which a student is employed and residing in a country whose language is one that he is studying for his course (provided that the period of residence in that country is a requirement of his course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

"publicly-funded" means maintained or assisted by recurrent grants out of public funds and related expressions are to be interpreted accordingly;

"quarter" in relation to an academic year means a period in that year—

(a) beginning with 1st January and ending with 31st March;

(b) beginning with 1st April and ending with 30th June;

(c) beginning with 1st July and ending with 31st August; or

(d) beginning with 1st September and ending with 31st December;

"refugee" means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**19**) as extended by the Protocol thereto which entered into force on 4th October 1967(**20**) and any reference to the child of a refugee includes a reference to a step-child;

"relevant institution of higher education in the Republic of Ireland" means an institution listed in Schedule 6;

"Research Council" means any of the following research councils—

(a) Biotechnology and Biological Sciences Research Council,

(b) Economic and Social Research Council,

(c) Engineering and Physical Sciences Research Council,

(d) Medical Research Council,

(e) Natural Environment Research Council,

(f) Particle Physics and Astronomy Research Council,

(g) Arts and Humanities Research Council;

"sandwich course" has the meaning given in paragraph (6);

(**18**) S.R. 2003 No. 459, as amended by S.R. 2004 No. 395
(**19**) Cmnd. 9171
(**20**) Cmnd. 3906 (Out of print; photocopies are available, free of charge, from the Student Support Division, Department for Education and Skills, Mowden Hall, Staindrop Road, Darlington, DL3 9BG)

"Scottish healthcare allowance" means any allowance under sections 73(f) and 74(1) of the Education (Scotland) Act 1980(**21**) granted in respect of a person attending a course leading to a qualification in a healthcare profession other than as a medical doctor or dentist;

"statutory award" means any award made or grant paid by virtue of the 1986 Order (except a maintenance allowance payable under arrangements approved by the Department in accordance with Article 50(3) of that Order), or any comparable award, grant or other support in respect of undertaking a course which is paid out of public funds;

"student loan account number" means the account number assigned by the lender to a loan made under the student loans legislation;

"student loans legislation" means the Education (Student Loans) (Northern Ireland) Order 1990(**22**), the Education (Student Loans) Act 1990(**23**), the Education (Scotland) Act 1980 and regulations made thereunder, the Order and regulations made thereunder and the Teaching and Higher Education Act 1998(**24**), and regulations made thereunder.

"support" means financial support by way of grant or loan made by the Department in accordance with regulations made under Article 3 of the Order;

"Switzerland Agreement" means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999(**25**) and which came into force on 1st June 2002; and

"transitional award" means an award made under the 1986 Order which is a transitional award within the meaning of the Student Awards Regulations (Northern Ireland) 1998.

(2) For the purposes of these Regulations, a person who is ordinarily resident in Northern Ireland, England, Wales, Scotland or the Islands as a result of having moved from another of those areas for the purpose of undertaking—

(a) his present course; or

(b) a previous designated course which, disregarding any intervening vacation, the student was undertaking immediately before undertaking his present course,

shall be considered to be ordinarily resident in the place from which he moved.

(3) For the purposes of these Regulations, including for the purpose of determining whether a person is settled in the United Kingdom within the meaning of the Immigration Act 1971(**26**), a person shall be treated as ordinarily resident in Northern Ireland, the United Kingdom and Islands or in the European Economic Area or Switzerland if he would have been so resident but for the fact that he, his spouse or his civil partner or his parent, guardian or any other person having parental responsibility for him, or any person having care of him when he is a child, is or was temporarily employed outside Northern Ireland, the United Kingdom and Islands or, as the case may be, outside the European Economic Area or Switzerland and paragraph 8(c) of Schedule 2 shall not apply in the case of such person. Without prejudice to the foregoing, members of the regular naval, military or air forces of the Crown shall be treated as being temporarily employed within the meaning of this paragraph for any period during which they serve outside the United Kingdom as members of such forces.

(**21**) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2) and section 74 was amended by the Self Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(17). The functions of the Department were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46)
(**22**) S.I. 1990/1506 (N.I. 11) as amended by S.I. 1996/1274 (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
(**23**) 1990 c. 6, repealed by the Teaching and Higher Education Act 1998 (c. 30), Schedule 4
(**24**) 1998 c. 30
(**25**) Cm. 4909
(**26**) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4