STATUTORY RULES OF NORTHERN IRELAND

2003 No. 459

EDUCATION

Students Awards Regulations (Northern Ireland) 2003

Made - - - -	*22nd October 2003*
Coming into operation	*1st December 2003*

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**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Students Awards Regulations (Northern Ireland) 2003 and shall come into operation on 1st December 2003 and shall have effect on and from 1st September 2003.

Interpretation

2.—(1) In these Regulations –

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

"area" means the area of a board;

"award" includes –

(**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(**3**) S.I. 1986/594 (N.I. 3): Article 50(1) and (2) was repealed by Article 9 of, and the Schedule to, the Education (Student Support) (Northern Ireland) Order 1998, (S.I. 1998/1760 (N.I. 14)), subject to the transitional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

(i) either a fees only award or a full award made under these Regulations; and

(ii) any award made under previous Regulations in respect of a person's attendance at a specified course the first year of which begins before 1st September 1998, or begins on or after that date if the person meets the conditions referred to in regulation 18(8);

"British Islands" means the United Kingdom, the Channel Islands, and the Isle of Man;

"Certificate in Education" includes a Teacher's Certificate;

"the Council Regulations" means Council Regulations (EEC) No. 1612/68 on freedom of movement for workers within the Community as extended by the EEA Agreement(**5**);

"course comparable to a first degree course" means –

(a) a course of at least 3 academic years' duration provided by a university or universities for a certificate, diploma or other academic award;

(b) an educational facility designated by the Department under Article 50(1);

"course for the DipHE" means a course provided by –

(a) a publicly funded institution for the Diploma of Higher Education;

(b) a publicly funded institution for the Diploma of Higher Education or a first degree as the student may elect after the commencement of the course;

(c) a publicly funded institution in conjunction with a private institution, or by a private institution, for the Diploma of Higher Education which is for the time being designated for the purposes of this provision by the Department;

"course for the HND" means –

(i) a course provided by a publicly funded institution for the Higher National Diploma or the Higher National Diploma of the Business and Technology Education Council ("BTEC");

(ii) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Higher National Diploma or the Higher National Diploma of the Business and Technology Education Council, which is for the time being designated for the purposes of this provision by the Department;

"course of higher education" means a course of a type listed in Schedule 1 to the Further Education (Northern Ireland) Order 1997(**6**) for the purposes of paragraph 2(d) of Schedule 1, includes a full-time course outside Northern Ireland which is comparable to a full-time course of higher education in Northern Ireland;

"course of initial teacher training" means –

(a) a full-time course for the initial training of teachers (other than a course for the degree of Bachelor of Education) provided by a publicly funded institution or where a private institution is an eligible institution as defined by section 4(2) of the Education Act 1994(**7**) by a public institution in conjunction with such a private institution, or by such a private institution;

(b) a part-time course of teacher training, involving not less than 3 days' attendance for the purposes of study or teaching practice during each of at least 30 weeks during each year of the course, for the time being specified for the purposes of this provision by the Department;

(c) any other course of teacher training, whether full-time, part-time or partly full-time and partly part-time, for the time being so specified; and

(**5**) O.J. No. L257, 19.10.68, p. 2. (O.J./S.E. 1968 (II) p. 475)
(**6**) S.I. 1997/1772 (N.I. 15)
(**7**) 1994 c. 30

for the purposes of paragraphs (a) to (c) a full-time course is a course involving not less than 30 weeks' full-time attendance for the purposes of study or teaching practice during each year of the course, a part-time course is a course involving periods of attendance for those purposes all of which are part-time, and a partly full-time and partly part-time course is any other course; and in this definition in relation to a course provided at the University of Oxford or Cambridge a reference to a period of 30 weeks shall have effect as a reference to a period of 25 weeks;

"degree" means a degree awarded by a university, institution of higher education in the United Kingdom or the Republic of Ireland or the Council for National Academic Awards;

"dependent" means wholly or mainly financially dependent;

"discretionary award" shall be construed in accordance with regulation 2(5);

"employment" means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and "employed" shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding for gain of any office and to the following for gain of any occupation;

"establishment of further education" excludes a university but includes a college of education and an institution of further education which also provides higher education;

"European Community" means the area comprised by the member States of the European Community (including the United Kingdom) as constituted from time to time;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**8**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**9**);

"EEA migrant worker" means a person who is a national of a member State of the European Economic Area or Switzerland who has taken up an activity as an employed person in the United Kingdom under the Council Regulation or in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the Council Regulation;

"European Economic Area" means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein; provided that any area which was previously not part of the European Economic Area, but at any time before or after these Regulations came into operation becomes part of that area shall be considered to have always been part of the European Economic Area;

"European student" means a person who is a national of a member State of the European Community or the child of such a national who has not been ordinarily resident in the British Islands as described in regulation 6(1) and (2) or who is not settled in the United Kingdom as described in paragraph 2(a) of Schedule 1;

"fees only award" means an award made only in respect of fees described in Schedule 5;

"first degree course" means –

(a) a course provided by a publicly funded institution for a first degree or for the degree of Bachelor of Medicine or an equivalent degree;

(b) a course provided by the University of Buckingham for a first degree of that university;

(c) an international course;

(d) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for a first degree or for the degree of Bachelor of

(**8**) Cmnd. 2073
(**9**) Cmnd. 2183

Medicine or an equivalent degree, which is for the time being designated for the purposes of this provision by the Department;

"full award" means an award made in respect of both fees described in Schedule 5 and a maintenance grant;

"independent student" means a student who –

(a) has attained the age of 25 before the beginning of the year for which payments in pursuance of his award fall to be made; or

(b) has supported himself out of his earnings for periods (including any period mentioned in paragraph (3)), before the first year of his course aggregating not less than 3 years; or

(c) has been married before the beginning of the year for which payments in pursuance of his award fall to be made whether or not the marriage is still subsisting; or

(d) has no parent living; or

(e) is irreconcilably estranged from his parents;

"institution" means an educational institution in the United Kingdom providing further or higher education or both, or providing a course which qualifies for funding under Part I of the Education Act 1994 or a university or relevant institution of higher education in the Republic of Ireland providing a full-time course comparable to one listed in paragraph 1, 2, 3 or 4 of Schedule 2;

"international course" means a course provided by a publicly funded institution in conjunction with an overseas institution for a first degree;

"maintenance grant" means a grant calculated in accordance with regulation 12;

"Metropolitan Police District" means the areas referred to in section 76(1) of the London Government Act 1963(**10**) as it had effect prior to its amendment by section 323 of the Greater London Authority Act 1999(**11**);

"ordinary maintenance requirement" shall be construed in accordance with paragraph 1(1) of Schedule 6;

"overseas institution" means an educational institution outside the United Kingdom providing further or higher education or both;

"previous awards regulations" means the Regulations revoked by regulation 18 and any regulations superseded by those Regulations;

"private institution" means an institution or institutions which are not maintained or assisted by recurrent grants out of public funds;

"publicly funded institution" means an institution or institutions which are maintained or assisted by recurrent grants out of public funds;

"refugee" means a person 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(**12**) as extended by the Protocol thereto which entered into force on 4th October 1967(**13**) and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

"relevant day" means the last day of the month of October, February, April or June (as the case may be according to whether the academic year of the course begins in the winter, spring, summer or autumn) preceding the beginning of the course;

(**10**) 1963 c. 33, section 76 was amended by the Local Authorities etc (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), Article 11
(**11**) 1999 c. 29
(**12**) Cmnd. 9171
(**13**) Cmnd. 3906 (Out of Print)

"relevant institution of higher education in the Republic of Ireland" means an institution listed in Part II of Schedule 4;

"sandwich course" and in relation to such a course any other term defined in paragraph 1 of Schedule 9 shall have the same meaning as in that paragraph;

"specified course" means a course of a type listed in Schedule 2; and in relation to any person any reference (otherwise unqualified) to a specified course shall, as the context requires, be construed as a reference to a specified course which the person attends or has applied to attend and any reference to a specified course shall be construed as a reference to either a course of full-time study or a sandwich course;

"statutory award" means any award made or grant paid by virtue of Article 50 (except a maintenance allowance payable under the Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1996(**14**)) or Article 51 and includes any comparable award made or grant or other payment made in respect of attendance at a course which is paid out of monies provided by or under any statutory provision;

"student" means a person to whom an award has been made under these Regulations or previous awards regulations;

"supplementary requirement" shall be construed in accordance with paragraph 4 of Schedule 6;

"Swiss 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 and which came into force on 1st June 2002(**15**);

"the excess period" shall be construed in accordance with paragraph 5(1) of Schedule 6;

"the Income Tax Acts" has the same meaning as in Schedule 1 to the Interpretation Act 1978(**16**);

"the Order" means the Education and Libraries (Northern Ireland) Order 1986 and a reference by number to an Article is a reference to the Article bearing that number in the Order;

"the Tax Acts" has the same meaning as in Schedule 1 to the Interpretation Act 1978;

"university" means a university in the United Kingdom or the Republic of Ireland and includes a university college and a constituent college, school or hall of such a university.

"year", in respect of a course, means the period of 12 months beginning on 1st January, 1st April, 1st July or 1st September according as to whether the academic year of the course begins in the winter, spring, summer or autumn respectively; and any reference to the first or the final year of a course shall be construed accordingly.

(2) In paragraph (1) "parent" shall have the same meaning as in Part II of Schedule 7.

(3) A period during which a student has supported himself out of his earnings includes any period during which –

(a) he was participating in arrangements for training for the unemployed under any scheme operated, sponsored or funded by any state authority or agency, national, regional or local;

(b) he was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;

(c) he was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) and (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit; or

(**14**) S.R. 1996 No. 578
(**15**) Cm 4904
(**16**) 1978 c. 30: definition of "Tax Acts" substituted by 1987 c. 16, section 71, Schedule 15, paragraph 12