STATUTORY RULES OF NORTHERN IRELAND

2003 No. 298

EDUCATION

Education (Student Support) Regulations (Northern Ireland) 2003

Made - - - -	*11th June 2003*
Coming into operation	*16th July 2003*

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 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 Education (Student Support) Regulations (Northern Ireland) 2003 and shall come into operation on 16th July 2003.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires –

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

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

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

(**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**) S.I.1998/1760 (N.I. 14); *see* Article 2 (2) of S.I. 1986/594 (N.I. 3), as read with Article 2(4) of S.I. 1998/1760 (N.I. 14) for the definitions of "prescribed", "regulations" and the "Department"
(**3**) S.R. 1999 No.481 Article 5(b) and Schedule 3 Part II
(**4**) S.I. 1986/594 (N.I. 3)
(**5**) S.R. 1998 No. 298
(**6**) S.R. 1999 No. 192, as amended by S.R. 1999 No. 370

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

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

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

"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" has the meaning given it in paragraph (6);

"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;

"award" means an award made under the Students Awards Regulations (Northern Ireland) 2002(**10**) or previous awards regulations;

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

"contribution" means an eligible student's contribution calculated in accordance with regulation 23 and Schedule 3;

"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 29 or by the Department under regulation 29;

"disability related benefit" means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance and industrial injuries benefit, all payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**11**), or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations (Northern Ireland) 1987(**12**);

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**13**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**14**);

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

"electronic signature" means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication;

"eligible student" means a person whom the Department has determined is eligible for support in connection with his attendance at a course in accordance with regulation 6, 7 or 35;

(**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 No. 224, as amended by S.R. 2003 No. 121
(**10**) S.R. 2002 No. 265
(**11**) 1992 c. 7, as amended by the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I.12)), Articles 3 to 5, 7, 8, 10 to 12 and Schedules 1 and 2
(**12**) S.R. 1987 No. 459 (*see* Parts III and IV of Schedule 2), the relevant amending regulations are S.R. 1988 Nos. 146 and 431, S.R. 1989 No. 395, S.R. 1990 No. 387, S.R. 1992 No. 6, S.R. 1993 Nos. 218 and 373, S.R. 1994 Nos. 327 and 474, S.R. 1995 Nos. 67, 86 and 367, S.R. 1998 No. 324, S.R. 1999 Nos. 381 and 385 and S.R. 2000 Nos. 74 and 367
(**13**) Cmnd. 2073
(**14**) Cmnd. 2183

"eligible part-time student" means a person whom the Department has determined is eligible for support in connection with his undertaking a part-time course in accordance with regulation 32, 34 or 35;

"end-on course" means –

(a) a course mentioned in paragraph 1 of Schedule 2 which a student begins to attend immediately after ceasing to attend a course mentioned in paragraph 2 or 3 of Schedule 2 (disregarding any intervening vacation) 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 or 2002 Regulations; or

(b) a course for the initial training of teachers mentioned in paragraph 4 of Schedule 2 the duration of which does not exceed two years (a part-time course being treated as its full-time equivalent), which a student begins to attend immediately after ceasing to attend a course mentioned in paragraph 1 or 4 (but only where the course leads to a first degree) of Schedule 2 (disregarding any intervening vacation) 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 or 2002 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 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;

"higher education course" means a course referred to in Schedule 2 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" means the loan towards a student's maintenance pursuant to any Regulations made under the Order, including the interest accrued on the loan and any penalties or charges made in connection with it;

"lone parent" means an eligible student who does not ordinarily live with a spouse or with another person as a spouse, and who has a dependant child or dependant children within the meaning of regulation 16(11);

"Metropolitan Police District" means the areas referred to in section 76 of the London Government Act 1963(**15**) as it had effect prior to the substitution by section 323 of the Greater London Authority Act 1999(**16**) of subsection (1);

"old award" means an award made under Article 50(1) of the 1986 Order which is an old award within the meaning of the Students Awards Regulations (Northern Ireland) 1998(**17**);

"periods of work experience" has the meaning given to it in regulation 5(4);

"quarter" in relation to an academic year, means one of the periods in that year from 1st January to 31st March, 1st April to 30th June, 1st July to 31st August, or 1st September to 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(**18**) as extended by the Protocol thereto which entered into force

(**15**) 1963 c. 33; Section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), Article 11
(**16**) 1999 c. 29
(**17**) S.R. 1998 No. 273
(**18**) Cmnd. 9171

on 4th October 1967(**19**) 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 4;

"sandwich course" has the meaning given it in regulation 5(2);

"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 Order, the Education (Student Loans) (Northern Ireland) Order 1990(**20**), the Teaching and Higher Education Act 1998(**21**), the Education (Student Loans) Act 1990(**22**) or the Education (Scotland) Act 1980(**23**);

"support" means financial support by way of grant or loan made by the Department pursuant to Regulations made under the Order;

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

"transitional award" means an award made under the 1986 Order which is a transitional award within the meaning of the Students 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 current course, or

(b) a previous designated course which, disregarding any intervening vacation, the student was undertaking immediately before undertaking his current 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(**24**), a person shall be treated as ordinarily resident in Northern Ireland, the United Kingdom and the Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse 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 the Islands, or as the case may be, outside the European Economic Area and paragraph 8(c) of Schedule 1 shall not apply in the case of such a 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.

(4) For the purposes of these Regulations an area which –

(a) was previously not part of the European Community or the European Economic Area, but

(**19**) 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)

(**20**) 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

(**21**) 1998 c. 30

(**22**) 1990 c. 6, amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3

(**23**) 1980 c. 44; amended by the Teaching and Higher Education Act 1988 (c. 30), section 29

(**24**) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4, by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, and the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12

(b) at any time before or after these Regulations come into operation has become part of one or other or both of those areas,

shall be considered to have always been part of the European Economic Area.

(5) In these Regulations a reference to an EEA migrant worker is a reference to a person who is a national of a Member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom –

(a) under Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community(**25**), as extended by the EEA Agreement; or

(b) 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 above mentioned Council Regulation.

(6) In these Regulations "academic year" means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September, according as the academic year of the course in question begins in the winter, spring, summer or autumn respectively, but if students are required to begin the course during August or September and to continue it through the autumn the academic year of the course shall be considered to begin in the autumn rather than the summer.

(7) In these Regulations any reference to the signature of a declaration includes electronic signature in such form as the Department may specify.

Revocations and transitional provisions

3.—(1) The 2002 Regulations and the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2002(**26**) shall be revoked on 1st September 2003.

(2) The 2002 Regulations shall apply to the provision of support to students in relation to an academic year which begins before 1st September 2003, and these Regulations shall apply in relation to the provision of support in connection with undertaking a course during an academic year which begins on or after 1st September 2003, whether anything done under either the 2002 Regulations or these Regulations is done before or after 1st September 2003.

(3) Accordingly the revocation of the 2002 Regulations shall not affect their continued operation after 1st September 2003 for the purpose of providing support as mentioned in paragraph (2).

(4) Notwithstanding any other provision of these Regulations, where –

(a) a person attends a course in respect of which a transitional award was made to him; or

(b) no award was made but a transitional award would have been made to him if he had applied for an award and his resources had not exceeded his requirements,

he shall be eligible for support by way of grant under Parts III and IV in connection with his attendance at the course, or in connection with his attendance at any subsequent course to which the award (either made or which would have been made) would have been transferred if transitional awards provided for payments after the first year of a course, but unless paragraph (5) applies he shall only be eligible for support by way of loan under Part V if he satisfies the conditions for eligibility in these Regulations.

(5) Notwithstanding any other provision of these Regulations where any person received or was eligible to receive a loan in relation to an academic year of a course under the 1998 Regulations he shall be eligible for support by way of loan under Part V in connection with his attendance at the course, or any subsequent designated course which (disregarding any intervening vacation) he starts attending immediately after ceasing to attend that course, but unless paragraph (4) applies he shall

(**25**) O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968 (II) p. 457
(**26**) S.R. 2002 No. 121