STATUTORY RULES OF NORTHERN IRELAND

1999 No. 351

EDUCATION

Students Awards Regulations (Northern Ireland) 1999

Made - - - -	*10th August 1999*
Coming into operation	*1st September 1999*

The Department of Education, in exercise of the powers conferred on it by Articles 50(1) and 134(1)(**1**) of the Education and Libraries (Northern Ireland) Order 1986(**2**) 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) 1999 and shall come into operation on 1st September 1999.

Revocations

2.—(1) Subject to paragraph 3 the Students Awards Regulations (Northern Ireland) 1998(**3**) and the Students Awards (Amendment) Regulations (Northern Ireland) 1998(**4**) are hereby revoked.

(2) Without prejudice to section 29(3)(a) of the Interpretation Act (Northern Ireland) 1954(**5**) and to the definition of "award", an old award made in pursuance of the Regulations revoked by regulation 2 before the coming into operation of these Regulations, insofar as it could have been made in pursuance of these Regulations, shall for the purposes thereof, be treated as having been so made.

(3) Where the current academic year of a student's course began in the winter or the spring of 1999 then, notwithstanding anything in these Regulations, payments in pursuance of an old award to that student in respect of the year beginning on 1st January 1999 or, as the case may be, 1st April 1999 shall be the aggregate of—

(**1**) As amended by S.I. 1993/2810 (N.I. 12)Art. 50(1) and Schedule 4 Part II
(**2**) S.I. 1986/594 (N.I. 3)
(**3**) S.R. 1998 No. 273
(**4**) S.R. 1998 No. 300
(**5**) 1954 c. 33 (N.I.)

(a) two-thirds or, as the case may be, one third of the payments in pursuance of that award which would have fallen to be made in respect of that year under the Students Awards (Northern Ireland) Regulations 1998 had they not been revoked; and

(b) one-third or, as the case may be, two-thirds of the payments which would have fallen to be made in respect of the year beginning on 1st September 1999 under these Regulations had the academic year of that course begun in the autumn of 1999.

(4) In the case of a course at the University of Buckingham beginning in the winter, spring or summer of 1999 then, notwithstanding anything in these Regulations, payments in pursuance of an old award in respect of the year beginning on 1st January, 1st April or 1st July (as the case may be) shall be the aggregate of—

(a) three-quarters, one-half or one quarter (as the case may be) of the payments which would have fallen to be made in respect of that year under the Students Awards Regulations (Northern Ireland) 1998 had they not been revoked; and

(b) one-quarter, one-half or three-quarters (as the case may be) of the payments which would have fallen to be made in respect of the year beginning on 1st September 1999 under these Regulations had the academic year of the course begun in the autumn of 1999.

(5) The revocation of the Students Awards Regulations (Northern Ireland) 1998 shall not affect the continued operation of those Regulations with respect to, or otherwise in connection with, awards made under them before they are revoked, the making of awards under them after they are revoked and awards so made after they are revoked, where any such award is or will be a transitional award.

(6) Where an award was made to a student under Article 50(3) ("the discretionary award") in respect of a course to which Article 50(1) and (2) did not then apply but the course becomes or has become a specified course and an award within the meaning of these Regulations is or has been made to the student in respect of that course, then if the discretionary award continues to be payable it shall be disregarded in calculating the students income for the purposes of regulation 12(1)(b); but payments on account of the mandatory award in respect of fees and in respect of maintenance for any period shall be respectively reduced or extinguished by those on account of the corresponding element of the discretionary award.

(7) Where—

(a) an award was made to a person pursuant to previous awards regulations in respect of his attendance at a course during an academic year beginning before 1st September 1997; and

(b) the person immediately after ceasing to attend that course (disregarding any intervening vacation) begins to attend another course,

a board shall not be excepted from the duty to make an award in respect of the person's attendance at the second course by the application of the exception relating to settlement in the United Kingdom found in paragraph 2(a) of Schedule 1.

Interpretation

3.—(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 either a fees only award or a full award made under these Regulations and any award made under previous Regulations which is an old award;

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

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

"the Council Regulation" means Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community as extended by the EEA Agreement(**6**);

"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(**7**) 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(**8**) 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

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;

(**6**) O.J. No. L257, 19.10.68, p.2 (O.J./S.E. 1968 (II) p.475)
(**7**) S.I. 1997/1772 (N.I. 15)
(**8**) 1994 c. 30

"dependent" means wholly or mainly financially dependent;

"discretionary award" shall be construed in accordance with regulation 2(6);

"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(**9**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**10**);

"EEA migrant worker" means 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 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 7(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 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;

"high-cost country" means Australia, Austria, Belgium, countries of the Commonwealth of Independent States, Finland, France (excluding Departements-d'Outre Mer), Germany, Iceland, Indonesia, the Republic of Ireland, Israel, Italy, Luxembourg, the Netherlands, New Zealand and the United States of America;

(**9**) Cmnd 2073
(**10**) Cmnd 2183

"higher-cost country" means Denmark, Hong Kong, Japan, the Republic of Korea, Norway, Sweden, Switzerland and Taiwan;

"independent student" means a student who—

(a) has attained the age of 25 years 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 for at least 2 years 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;

"Metropolitan Police District" means the areas referred to in section 76 of the London Government Act 1963(**11**) disregarding any amendment after these Regulations are made;

"maintenance grant" means a grant calculated in accordance with regulation 13;

"old award" means an award made under previous Awards Regulations which is an old award within the meaning of the Students Awards Regulations (Northern Ireland) 1998;

"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;

"periods of experience", "prescribed proportion" and "sandwich year" in relation to a sandwich course have the meanings respectively assigned to them by paragraph 1 of Schedule 9;

"previous awards regulations" means the Regulations revoked by regulation 2 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;

(**11**) 1963 c. 33; Section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), Article 11

(**12**) Cmnd. 9171

(**13**) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Student Support Branch, Department of Education, Rathgael House, Balloo Road, Bangor, Co Down BT19 7PR)