STATUTORY RULES OF NORTHERN IRELAND

1999 No. 192

EDUCATION

Education (Student Support) Regulations (Northern Ireland) 1999

Made - - - -	*21st April 1999*
Coming into operation	*22nd April 1999*

The Department of Education, in exercise of the powers conferred on it by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(**1**) 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) 1999 and shall come into operation on 22nd April 1999.

Interpretation

2.—(1) In these Regulations—

"the 1986 Order" means the Education and Libraries (Northern Ireland) Order 1986(**2**);

"the 1998 Regulations" means the Education (Student Support) Regulations (Northern Ireland) 1998(**3**);

"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 to it in paragraph (6);

(**1**) 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"
(**2**) S.I. 1986/594 (N.I. 3)
(**3**) S.I. 1998/298

"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;

"applicant" shall be construed in accordance with regulation 6(3)(b);

"award" means an award made under the Students Awards Regulations (Northern Ireland) 1998(**4**) or any Regulations revoked and replaced by those Regulations;

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

"contribution" means an eligible student's contribution calculated in accordance with regulation 21 and Schedule 3;

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

"disability related benefit" means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial injuries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**5**) 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(**6**) or the Income Support (General) Regulations 1987(**7**);

"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" has the meaning assigned to it in paragraph (5);

"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 or 7 and "eligibility" shall be construed accordingly;

"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;

"high-cost country" means Australia, Austria, Belgium, Finland, France, Germany, Iceland, Indonesia, the Republic of Ireland, Israel, Italy, Luxembourg, the Netherlands, New Zealand, countries of the former Soviet Union, United States of America;

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

"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;

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

(**4**) S.R. 1998 No. 273, as amended by S.R. 1998 No. 300
(**5**) 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
(**6**) S.R. 1987 No. 459 (*see* Parts III and VI 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 and S.R 1997 No. 113
(**7**) S.I. 1987/1967 and (*see* Parts III and VI of Schedule 2), the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/482, 1995/516, 1997/543
(**8**) Cmnd. 2073
(**9**) Cmnd. 2183

"loan" means a 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 or dependents within the meaning of regulation 15(10);

"Metropolitan Police District" means the areas referred to in section 76 of the London Government Act 1963(**10**) disregarding any amendment after these regulations are made;

"old award" means an award made 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 and before 1st September 1999 if the person meets the conditions referred to in the Students Awards Regulations (Northern Ireland) 1998 Regulation 8(4)(**11**);

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

"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(**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 step-child;

"relevant institution of higher education in the Republic of Ireland" means an institution listed in Part II of Schedule 4 to the Students Awards Regulations (Northern Ireland) 1998;

"responsible person" means a consular officer, minister of religion, medical or legal practitioner, established civil servant, teacher or police officer;

"sandwich course" has the meaning given to it in regulation 5(3);

"statutory award" means any award made or grant paid by virtue of the Order (except a maintenance allowance payable under the Maintenance Allowances (Pupils over Compulsory School Age) Regulations (Northern Ireland) 1996)(**14**) and includes any comparable award or grant or other payment made in respect of attendance at 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(**15**), the Teaching and Higher Education Act 1998(**16**), the Education (Student Loans) Act 1990(**17**), or the Education (Scotland) Act 1980(**18**);

(**10**) 1963 c. 33; Section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), Article 11

(**11**) S.R. 1998 No. 273 as amended by S.R. 1998 No. 300

(**12**) Cmnd. 9171

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

(**14**) S.R. 1996 No. 578

(**15**) 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

(**16**) 1998 c. 30

(**17**) 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

(**18**) 1980 c. 44; amended by the Teaching and Higher Education Act 1998 (c. 30), section 29

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

"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 attending—

(a) his current course; or

(b) a previous designated course which, disregarding any intervening vacation, the student was attending immediately before attending 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(**19**), a person shall be treated as ordinarily resident in 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 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.

(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

(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(**20**), 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, the spring, the summer or the autumn respectively, but if students are required to begin attending the course during August or September and to continue attending through the autumn the academic year of the course shall be considered to being in the autumn rather than the summer.

Revocations and transitional provisions

3.—(1) The 1998 Regulations shall be revoked on 1st September 1999.

(2) The 1998 Regulations shall apply to the making of loans to students in relation to an academic year which begins before 1st September 1999, and these Regulations shall apply in relation to the provision of support in connection with attendance at a course during an academic year which begins

(**19**) 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 by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12

(**20**) O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968 (II) p. 457)

on or after 1st September 1999, whether anything done under either Regulations is done before or after 1st September 1999.

(3) Accordingly the revocation of the 1998 Regulations shall not affect their continued operation after 1st September 1999 for the purpose of the making of any loans thereunder as referred to in paragraph (2).

(4) If the first academic year of a course began before 1st September 1999 the requirement in regulation 6(2) that an application form be received not later than four months after the beginning of the course shall be treated as a requirement that it be received not later than sixteen months after the beginning of the course.

(5) Where the Department is satisfied that the certificate or the passport and supporting letter required to be produced by regulation 6(4) were produced by the applicant in support of an application for—

(a) a transitional award which was made to him; or

(b) a loan under the 1998 Regulations which he received,

that requirement shall not apply.

(6) 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 a 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 (7) 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.

(7) 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 (6) applies he shall only be eligible for support by way of grant under Parts III and IV if he satisfies the conditions for eligibility in these Regulations.

(8) If the eligibility of a person mentioned in paragraph (6) in respect of any course is transferred under regulation 7, regulation 10(9) shall apply but only where the necessary recommendation or consent to the transfer is given later than four months after the end of the first academic year of the course.

(9) Where under the 1998 Regulations a person received or was eligible to receive a loan in relation to an academic year of a part-time course of initial training for teachers he shall be eligible for support by way of loan under Part V calculated in accordance with these Regulations, except that where regulation 12(3)(b) applies regulation 18(12) shall not apply, and for the amounts referred to in regulation 18(1) and (2) there shall be substituted for the amounts in column one the corresponding amounts in column two:

£	£
2,875	2,385
4,480	3,225
4,440	3,195