STATUTORY RULES OF NORTHERN IRELAND

# 1998 No. 298

# EDUCATION

## Education (Student Support) Regulations (Northern Ireland) 1998

*Made - - - - 20th August 1998*
*To be laid before Parliament under paragraph 3(3) of Schedule 1 to the Northern Ireland Act 1974*

*Coming into operation 1st September 1998*

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) 1998 and shall come into operation on 1st September 1998.

**Interpretation**

**2.**—(1) In these Regulations—

"academic year", in relation to a course, means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September, according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively;

"accelerated course" means a course of two academic years duration in which persons undertaking the course 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;

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

"certificate of eligibility" shall be construed in accordance with regulation 5(7);

(**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"

"course" means a higher education course or a further education course;

"designated course" means a course designated by regulation 4(1) or by the Department under regulation 4(4);

"disability related benefit" means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial industries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) or the Social Security Contributions and Benefits Act 1992(**3**) 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(**4**) or the Income Support (General) Regulations 1987(**5**);

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**6**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**7**);

"eligible" in relation to any student means eligible for a loan in accordance with regulation 3;

"eligibility form" means the form issued under regulation 5(4);

"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 Liechtenstien;

"hardship loan" shall be construed in accordance with regulation 10;

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

"loan" means a loan made under the Order (whether made before or after the coming into operation of these Regulations) towards a student's maintenance, including the interest accrued on the loan and any changes made in connection with it;

"loan application form" shall be construed in accordance with regulation 5(8);

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

"periods of work experience" means periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution;

"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(**8**) as extended by the Protocol thereto which entered into force

(**2**) 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
(**3**) 1992 c. 4, as amended by the Social Security (Incapacity for Work) Act 1994 c. 18, sections 1 to 3, 5, 6, 8 to 11 and Schedules 1 and 2
(**4**) 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 and S.R. 1997 No. 113
(**5**) S.I. 1987/1967 (*See* Parts III and IV of Schedule 2), the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/1559, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/482, 1995/516, 1997/543
(**6**) Cmnd. 2073
(**7**) Cmnd. 2183
(**8**) Cmnd. 9171

on 4th October 1967(**9**) and any reference to the child of a refugee includes a reference to a step-child;

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

"sandwich course" means a course consisting of alternative periods of full-time study in an institution and periods of work experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purposes of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period; and

"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(**10**), the Teaching and Higher Education Act 1998(**11**), the Education (Student Loans) Act 1990(**12**), or the Education (Scotland) Act 1980(**13**).

(2) For the purposes of these Regulations a person who is ordinarily resident in Northern Ireland, as a result of having moved from England, Wales, Scotland, the Channel Islands or the Isle of Man for the purpose of attending his present course or a previous designated course which (disregarding any intervening vacation) he was attending immediately before commencing his present course, shall be considered to be ordinarily resident in the place from which he moved.

(3) For the purposes of these Regulations a person shall be treated as ordinarily resident in the United Kingdom and 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 Islands or, as the case may be, outside the European Economic Area and paragraph 7(*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, as extended by the EEA Agreement(**14**); 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.

(**9**) 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

(**10**) 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

(**11**) 1998 c. 30

(**12**) 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

(**13**) 1980 c. 44; amended by the Teaching and Higher Education Act 1998 (c. 30), section 29

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

# Part II

## Eligibility

### Eligible students

**3.**—(1) A person shall be an eligible student in relation to an academic year of a course which begins on or after 1st September 1998 for the purposes of Article 3(1) of the Order and of these Regulations if—

(a) he is a person mentioned in Schedule 1;

(b) the course he is attending is a designated course;

(c) he is under the age of 50 years on the first day of the course;

(d) he is not eligible to receive a loan in relation to the academic year under the Education (Student Loans) (Northern Ireland) Order 1990 or the Education (Student Loans) Act 1990;

(e) subject to regulation 9(4), he has not received a relevant loan in relation to the academic year of another course which year ended after the first day of the academic year in question;

(f) he is not eligible to receive, in relation to the academic year, any payment under a bursary or award of similar description bestowed on him in pursuance of Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(**15**) the amount of which is not calculated by reference to his income;

(g) he is not in breach of any obligation to repay any relevant loan; or

(h) where he entered into an agreement for a relevant loan when he was under the age of 18 years, he has ratified the agreement.

(2) For the purposes of paragraph (1)(*c*) and Schedule 1, if a person withdraws from a designated course provided by any institution with the agreement of that institution without completing the course and if, disregarding any intervening vacation, he immediately commences attending another designated course provided by the same or by a different institution the first day of the first course shall be regarded as the first day of the second course or any subsequent course which he commences in the same circumstances.

(3) For the purposes of paragraph (1)(*e*), (*g*) and (*h*) "relevant loan" includes a loan or any loan made under the Teaching and Higher Education Act 1998, the Education (Student Loans) Act 1990, the Education (Student Loans) (Northern Ireland) Order 1990 or the Education (Scotland) Act 1980.

### Designated courses

**4.**—(1) A course shall be designated for the purposes of Article 3(1) of the Order and regulation 3(1)(*b*) if it is—

(a) mentioned in Schedule 2;

(b) a full-time course;

(c) of at least one academic year's duration; and

(d) wholly provided by an educational institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

(2) For the purposes of these Regulations a full-time course is a sandwich course or a course—

(**15**) S.I. 1972/1265 (N.I. 14)

(a) which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere)—

(i) in the case of a course of one academic years' duration, for a period of at least 24 weeks; and

(ii) in the case of a course of two or more academic years' duration, for a period of at least 24 weeks in each academic year except the final year and of at least eight weeks in the final year; and

(b) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each academic year to an average of at least 21 hours for each week for which attendance is required for the purposes of sub-paragraph (*a*).

(3) For the purposes of these Regulations a course is provided by an institution if it provides the teaching and supervision which comprises the course, whether or not it has entered an agreement with the student to provide the course.

(4) For the purposes of Article 3 of the Order and regulation 3(1) the Department may designate courses of higher education which are not designated under paragraph (1).

**Certificate of eligibility**

**5.**—(1) A person shall demonstrate that he is an eligible student by completing an eligibility questionnaire and by providing such supporting evidence of eligibility as the Department may require.

(2) Without prejudice to the generality of paragraph (1) an eligible student shall produce—

(a) if he was born in the United Kingdom, a certificate issued by the appropriate authority showing the date of his birth;

(b) if he was born outside the United Kingdom, a valid passport, unless he is a refugee or does not hold one, and in any event a letter or other document issued by a responsible person which contains particulars of his date, place and country of birth and his names at birth;

(c) a United Kingdom national insurance card, or some other document issued or sent to the student by a government department or agency or by an employer which refers to his national insurance number, unless he does not have such a number; and

(d) evidence from the institution providing the designated course he is attending that he has commenced attending that course and of the duration of that course.

(3) The Department may take such steps and make such inquiries as it considers necessary to determine whether any student is an eligible student.

(4) If the Department considers that a person is an eligible student it shall issue to the student an eligibility form for the student to complete.

(5) An eligibility form shall include the following particulars—

(a) the full name of the student and his or her sex;

(b) the student’s United Kingdom national insurance number, unless he does not have one;

(c) the student’s most recent student loan account number, if any;

(d) if the student’s full name at birth was different from the above, his full name at birth;

(e) the country in which the student was born;

(f) if the student was born in the United Kingdom, the place where his birth certificate was issued;

(g) the student’s date of birth;