STATUTORY RULES OF NORTHERN IRELAND

1996 No. 298

EDUCATION

Students Awards (No. 2) Regulations (Northern Ireland) 1996

Made - - - -	*10th July 1996*
Coming into operation	*1st September 1996*

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 (No. 2) Regulations (Northern Ireland) 1996 and shall come into operation on 1st September 1996.

Revocation

2. The Students Awards Regulations (Northern Ireland) 1996(**3**) are hereby revoked.

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 an award made under previous awards regulations, and either a fees only award or a full award made under these Regulations;

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

(**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. 1996 No. 190

"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(**4**);

"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);

"the Diploma of Higher Education" means—

(a) a course provided by a publicly funded institution for the Diploma of Higher Education; or

(b) a course provided by 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 course provided by 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 Secretary of State for Education;

"course for the Higher Diploma" means 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");

"course of higher education" means a course of a type listed in Schedule 7 to the Education Reform (Northern Ireland) Order 1989(**5**) and, for the purposes of paragraph 2(*b*) of Schedule 2, 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 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(**6**) 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 a week during the course, for the time being specified for the purposes of this provision by the Department;

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

"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 Academical Awards;

"dependent" means wholly or mainly financially dependent;

"discretionary award" shall be construed in accordance with regulation 8(2);

"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;

(**4**) O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968 (II) p. 475)
(**5**) S.I. 1989/2406 (N.I. 20) as amended by S.I. 1993/2810 (N.I. 12) Art. 50(1) and Schedule 4 Part II
(**6**) 1994 c. 30

"European Community" means the area comprised by the member states of the European Community (including the United Kingdom) as constituted from time to time, and as respects any period prior to the unification of the Federal Republic of Germany with the former German Democratic Republic, that former Republic;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**7**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**8**);

"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; an area which was previously not part of the European Community or the European Economic Area but 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 area 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 and has been ordinarily resident within the European Economic Area throughout the period of 3 years before the commencement of his course, but who is not entitled to a full award by virtue of regulation 11(2);

"fees only award" means an award made only in respect of fees described in Schedule 6;

"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, that is to say a course provided by a publicly funded institution in conjunction with an overseas institution for a first degree;

(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 Secretary of State for Education;

"full award" means an award made in respect of both fees described in Schedule 6 and a maintenance grant;

"highest-cost country" means Denmark, Finland, Iceland, Japan, Norway, Sweden, Switzerland and Taiwan;

"higher-cost country" means Austria, Belgium, France, the Federal Republic of Germany, Hong Kong, Israel, the Republic of Korea, Luxembourg and the Netherlands;

"high-cost country" means Australia, Canada, Greece, Indonesia, the Republic of Ireland, Italy, New Zealand, countries of the former Soviet Union, Spain and the United States of America;

"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;

(**7**) Cmnd 2073
(**8**) Cmnd 2183

"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 paragraphs 1, 2, 3 or 4 of Schedule 3;

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

"modified proportion" means the proportion which the number of weeks in a sandwich year during which the student has no periods of experience bears to 52;

"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;

"ordinary maintenance requirement" shall be construed in accordance with paragraph 1(1) of Schedule 7;

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

"periods of experience" means—

(a) periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution, other than periods of—

(i) unpaid service in a hospital or in a public health service laboratory in the United Kingdom or the Republic of Ireland;

(ii) unpaid service with a public body in the United Kingdom or the Republic of Ireland acting in the exercise of its functions relating to health, welfare or the care of children and young persons or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom or the Republic of Ireland;

(iii) unpaid service in the prison, probation and aftercare service in the United Kingdom or the Republic of Ireland;

(iv) teaching practice;

(v) unpaid research in an institution or, in the case of a student attending an overseas institution as a necessary part of his course, in an overseas institution;

(vi) such experience as aforesaid falling wholly within the periods appointed by an institution for instruction and study thereat in any year which do not comprise paid service or employment and which do not aggregate more than either 6 weeks during that year or fall within that year and another year and do not aggregate more than 12 weeks during the 2 years taken together, where that other year has not already been taken into account for the purposes hereof;

(vii) unpaid service with a Health Authority established pursuant to section 8 of the National Health Service Act 1977(**9**) or a Special Health Authority established pursuant to section 11 of that Act(**10**);

(viii) unpaid service with a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(**11**); or

(ix) unpaid service with a health and social services board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**12**) or

(**9**) 1977 c. 49; section 8 was substituted by the Health Authorities Act 1995 (c. 17), section 1(1)
(**10**) Section 11 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 31, the National Health Service and Community Care Act 1990 (c. 19), Schedule 10 and the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 2
(**11**) 1978 c. 29; section 2 was amended by the Health and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 1, and by the National Health Service and Community Care Act (c. 19), section 28 and Schedule 9, paragraph 19(1)
(**12**) S.I. 1972/1265 (N.I. 14)

with a Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(**13**);

(b) in the case of a student whose course includes the study of one or more modern languages for not less than one half of the time spent studying on the course and which includes periods of residence in a country whose language is a language of the course, any such period of residence during which he is in gainful employment;

"prescribed proportion" means the proportion which the number of weeks in a sandwich year during which the student attends the institution for full-time study bears to 30, except that, where that proportion is greater than the whole, it means the whole;

"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(**14**) as extended by the Protocol thereto which entered into force on 4th October 1967(**15**) 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—

(a) except in the case mentioned in sub-paragraph (*b*), the last day of the month of October, February, April or June (according as the academic year of the course begins in the winter, spring, summer or autumn respectively) preceding the beginning of the course;

(b) in the case of a refugee, or the spouse or child of a refugee, or a person mentioned in regulation 7(4), who has entered the United Kingdom on or after a relevant day as defined in sub-paragraph (*a*) where—

(i) he has entered the United Kingdom before the day one month earlier than the first day of the academic year in which he commences his course, the said day or the day on which he applies for an award, whichever is the earlier;

(ii) he has not so entered the United Kingdom, the first day of the academic year in which he commences his course or the day on which he applies for an award, whichever is the earlier;

"relevant institution of higher education in the Republic of Ireland" means an institution listed in Part II of Schedule 5;

"sandwich course" means a course consisting of alternate periods of full-time study at an institution and periods of 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 of the course; and for the purpose 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;

"sandwich year" means, as respect any student, a year of a sandwich course which includes both attendance of full-time study at an institution and periods of experience;

"specified course" means a course of a type listed in Schedule 3; and in relation to any person any reference (otherwise unqualified) to a specified course shall, as the context requires, be

(**13**) S.I. 1991/194 (N.I. 1)
(**14**) Cmnd. 9171
(**15**) 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)