

**2007 No. 363**

**EDUCATION**

**The Education (Student Support) (Amendment) (No. 2)  
Regulations (Northern Ireland) 2007**

*Made* - - - - - *22nd August 2007*

*Coming into operation-* - - - - *21st September 2007*

The Department for Employment and Learning<sup>(a)</sup> makes the following Regulations in exercise of the powers conferred by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998<sup>(b)</sup> and now vested in it<sup>(c)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Education (Student Support) (Amendment) (No. 2) Regulations (Northern Ireland) 2007 and shall come into operation on 21st September 2007.

**Interpretation**

2. In these Regulations “the principal Regulations” means the Education (Student Support) Regulations (Northern Ireland) 2007<sup>(d)</sup>.

**Amendment of the principal Regulations**

3. The principal Regulations shall be amended as provided by regulations 4 to 24.

4. In regulation 2 (Interpretation) the following definitions shall be inserted—

- (a) after the definition of “current course”, there shall be inserted—  
““current distance learning course” means the designated distance learning course in respect of which a person is applying for support;”;
- (b) after the definition of “designated course”, there shall be inserted—  
““designated distance learning course” means a course designated by the Department under regulation 107C;”;
- (c) after the definition of “designated postgraduate course”, there shall be inserted—  
““disabled distance learning students’ allowance” means the grant payable under regulation 107H;”;
- (d) after the definition of “electronic signature”, there shall be inserted—

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(a) 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  
(b) S.I. 1998/1760 (N.I. 14) as amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b)  
(c) S.R. 1999 No. 481 *see* Article 5(b) and Schedule 3 Part II  
(d) S.R. 2007 No. 195 as amended by S.R. 2007 No. 293

““eligible distance learning student” has the meaning given in regulation 107A;”;

- (e) in the definition of “period of eligibility” after “eligible student,”, insert “in regulation 107D in relation to an eligible distance learning student.”.

5.—(1) Regulation 5 (Designated courses) shall be amended as provided by paragraphs (2) and (3).

(2) After paragraph (6)(a), there shall be inserted—

“(aa) a designated course and a designated distance learning course;”.

(3) For paragraph (11), there shall be substituted—

“(11) Where—

(a) the Department determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was—

(i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A’s status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he is applying for support.”;

(a) for paragraph (12), there shall be substituted—

“(12) Where—

(a) the Department determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was—

(i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which his status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or

(ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which his status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and

(b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which he is applying for support.”.

**6.**—(1) Regulation 6 (Period of eligibility) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)—

(i) for “paragraphs (2) and (3)”, there shall be substituted “paragraphs (2), (3) and (3A)”;

(ii) after sub-paragraph (b), there shall be inserted—

“(bb) not designated under regulation 107C;”.

(3) After paragraph (3), there shall be inserted—

“(3A) Paragraph (1)(bb) does not apply where the person applying for support in connection with the course is—

(a) a disabled student; and

(b) undertaking that course in the United Kingdom but not in attendance because he is unable to attend for a reason which relates to his disability.”.

**7.** In regulation 7(4)(a) (Transfer of status) after “regulation 8”, there shall be inserted “, regulation 107M, regulation 107N”.

**8.**—(1) Regulation 30 (Availability of fee contribution loans to old system students) shall be amended as provided by paragraphs (2) and (3).

(2) For paragraph (5), there shall be substituted—

“(5) In the case of a designated course at Heythrop College, the amount of grant for fees in respect of an academic year is the lesser of—

(a) £2,195; and

(b) the fees payable by the student in connection with that year.”.

(3) for paragraph (6), there shall be substituted—

“(6) In the case of a designated course at Guildhall School of Music and Drama, the amount of grant for fees in respect of an academic year is the lesser of—

(a) £4,455; and

(b) the fees payable by the student in connection with that year.”.

**9.**—(1) Regulation 35 (New system students) shall be amended as provided by paragraphs (2) and (3).

(2) In paragraph (1) after “compressed degree course”, there shall be inserted “or a designated distance learning course”.

(3) In paragraph (2)(b) after “attendance on”, there shall be inserted “or, in the case of a designated distance learning course, undertaking”.

**10.** After regulation 39 (6)(e)(ii) (General qualifying conditions for grants for living and other costs), there shall be inserted—

“(iia) a special agency established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(a).”

**11.** After regulation 40(1)(a) (Grants for students who have left care), there shall be inserted—

“(aa) disabled students’ allowance;”.

**12.** For regulation 41 (General), there shall be substituted—

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(a) S.I. 1990 No. 247 (N.I. 3)

“41. An eligible student qualifies for a grant to assist with the additional expenditure which the Department is satisfied that he is obliged to incur in connection with his attendance on a designated course by reason of a disability to which he is subject.”.

13. In regulation 42(4)(a) (Adult dependants’ grant) for “undertakes”, there shall be substituted “attends”.

14.—(1) Regulation 49(1) (Qualifying conditions for the maintenance grant) shall be amended as provided by paragraphs (2) to (5).

(2) At the beginning of sub-paragraph (a), there shall be inserted “subject to sub-paragraph (m),”.

(3) After sub-paragraph (d), there shall be inserted—

“(da) “dependent child” means, in relation to an eligible student, a child dependent on the student;”.

(4) In sub-paragraph (g) for “and (k)”, there shall be substituted “, (k) and (l)”.

(5) after sub-paragraph (k), there shall be inserted—

“(l) for the purposes of determining whether a person is the former partner of an eligible student’s partner, “partner” in relation to an eligible student’s partner means—

(i) the spouse of an eligible student’s partner;

(ii) the civil partner of an eligible student’s partner;

(iii) where the eligible student began the specified designated course on or after 1st September 2000, a person ordinarily living with an eligible student’s partner as if he were his spouse;

(iv) where the eligible student began the specified designated course on or after 1st September 2005, a person ordinarily living with an eligible student’s partner as if he were his civil partner;

(m) subject to sub-paragraph (n), for the purposes of the definitions of “adult dependant” and “dependent child”, the Department may treat an adult person or child as dependent on an eligible student if it is satisfied that the adult person or child—

(i) is not dependent on—

(aa) the eligible student; or

(bb) his partner; but

(ii) is dependent on the eligible student and his partner together.

(n) the Department must not treat an adult person (“A”) as dependent on an eligible student in accordance with sub-paragraph (m), if A is—

(i) the spouse or civil partner of the eligible student’s partner (including a spouse or civil partner from whom the Department considers the eligible student’s partner is separated); or

(ii) the former partner of the eligible student’s partner.”.

15. In regulation 63(2)(b) (Qualifying conditions for the loan for living costs – current system students), after the word “worker”, there shall be inserted “at a relevant institution in Northern Ireland;”.

16. In regulation 64(3)(b) (Qualifying conditions for the loan for living costs – old system students), after the word “worker”, there shall be inserted “at a relevant institution in Northern Ireland;”.

17. After regulation 107 (Interpretation), there shall be inserted—

## “PART 10A

### SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES

#### **Eligible distance learning students**

**107A.**—(1) An eligible distance learning student qualifies for support in connection with his undertaking a designated distance learning course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible distance learning student in connection with a designated distance learning course if in assessing his application for support the Department determines that the person falls within one of the categories set out in Part 2 of Schedule 2.

(3) A person is not an eligible distance learning student if—

- (a) subject to paragraph (4), there has been made to him or paid to him in connection with the distance learning course—
  - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to his income;
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992; or
  - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income;
- (b) he is in breach of any obligation to repay any loan;
- (c) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18;
- (d) he has, in the opinion of the Department, shown himself by his conduct to be unfitted to receive support; or
- (e) subject to paragraph (5), he is a prisoner serving a custodial sentence.

(4) Paragraph (3)(a) does not apply if—

- (a) the person applying for support is a disabled student; and
- (b) there has been made to him or paid to him in connection with the distance learning course—
  - (i) a healthcare bursary the amount of which is calculated by reference to his income; or
  - (ii) a Scottish Healthcare Allowance whether or not the amount of such allowance is calculated by reference to his income.

(5) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

(6) For the purposes of paragraphs (3)(b) and (3)(c), “loan” means a loan made under the student loans legislation.

(7) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) only applies if the agreement was made—

- (a) before 25th September 1991; and
- (b) with the concurrence of the borrower’s curator or at a time when he had no curator.

(8) Despite paragraphs (2) and (3) and subject to paragraphs (11) to (13), a person is an eligible distance learning student for the purposes of this Part if he satisfies the conditions in paragraph (9) or (10).

(9) The conditions in this paragraph are—

- (a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the current designated distance learning course pursuant to regulations made by the Department under Article 3 of the Order; and
  - (b) the person's status as an eligible distance learning student has not terminated.
- (10) The conditions in this paragraph are—
- (a) the Department has previously determined that the person is—
    - (i) an eligible student in connection with a designated course;
    - (ii) an eligible distance learning student in connection with a designated distance learning course other than the current distance learning course; or
    - (iii) an eligible part-time student in connection with a designated part-time course;
  - (b) the person's status as an eligible student, eligible distance learning student or as an eligible part-time student in connection with the course referred to in subparagraph (a) has been converted or transferred from that course to the current designated distance learning course as a result of one or more conversions or transfers in accordance with regulations made by the Department under Article 3 of the Order; and
  - (c) the person's status as an eligible distance learning student has not terminated.

(11) Where—

- (a) the Department determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which his status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which he is applying for support.

(12) Where—

- (a) the Department determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which his status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which he is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Department determined that he was an eligible student or eligible part-time student, as the case may be, before 21st September 2007.

(14) An eligible distance learning student may not, at any one time, qualify for support for—

- (a) more than one designated distance learning course;
- (b) a designated distance learning course and a designated course;
- (c) a designated distance learning course and a designated part-time course;
- (d) a designated distance learning course and a designated postgraduate course.

**Students becoming eligible during the course of the academic year**

**107B.**—(1) Where one of the events listed in paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant in respect of fees in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and
- (b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(2) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and
- (b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(3) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for disabled distance learning students' allowance in respect of that academic year in accordance with this Part; and
- (b) disabled distance learning students' allowance is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The events are—

- (a) the student's course becomes a designated distance learning course;
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or becomes a person with leave to enter or remain;
- (c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 2) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;
- (e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (f) the student acquires the right of permanent residence;
- (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 2;
- (h) the student becomes the child of a Swiss national; or
- (i) the student becomes the child of a Turkish worker.

### **Designated distance learning courses**

**107C.**—(1) A course is designated for the purposes of Article 3(1) of the Order and regulation 107A if it is designated by the Department under this regulation.

(2) Subject to paragraph (4), the Department may designate a course under this regulation if in its opinion—

- (a) the course is mentioned in Schedule 3 other than a course for the initial training of teachers;
- (b) the course is a full-time course;
- (c) the course is of at least one academic year's duration; and
- (d) students undertaking the course in the United Kingdom are not required to be in attendance on it by the institution or institutions providing the course.

(3) For the purposes of determining whether the requirement in paragraph (2)(d) is satisfied the Department may disregard—

- (a) any requirement imposed by the institution or institutions providing the course to attend any institution for the purposes of—
  - (i) registration or enrolment;
  - (ii) an examination;
- (b) any requirement imposed by the institution or institutions providing the course to attend any institution on a weekend or during any vacation;
- (c) any period of attendance at the institution or institutions providing the course which a student may but is not required to complete by that institution or those institutions.

(4) The Department may not designate a course as a designated distance learning course if—

- (a) it falls within paragraph 7 or 8 of Schedule 3; and
- (b) the governing body of a maintained school has arranged for the provision of the course to a pupil of the school.

### **Period of eligibility**

**107D.**—(1) A student retains his status as an eligible distance learning student in connection with a designated distance learning course until the status terminates in accordance with this regulation and regulation 107A.

(2) The period for which an eligible distance learning student retains his status is the “period of eligibility”.

(3) Subject to the following paragraphs and regulation 107A, the period of eligibility terminates at the end of the academic year in which the eligible distance learning student completes the designated distance learning course.

(4) The period of eligibility terminates when the eligible distance learning student—

- (a) withdraws from his designated distance learning course in circumstances where the Department has not transferred or converted or will not transfer or convert his status under regulation 107L, regulation 107M, regulation 107N, regulation 107O or regulation 121; or
- (b) abandons or is expelled from his designated distance learning course.

(5) The Department may terminate the period of eligibility where the eligible distance learning student has shown himself by his conduct to be unfitted to receive support.

(6) If the Department is satisfied that an eligible distance learning student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Department may take such of the following actions as it considers appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 107R.

(7) Where the period of eligibility terminates before the end of the academic year in which the eligible distance learning student completes the designated distance learning course the Department may, at any time, renew or extend the period of eligibility for such period as it determines.

### **Support for distance learning courses**

**107E.**—(1) For the purposes of this regulation, the support available is—

- (a) a grant in respect of fees not exceeding the lesser of the following amounts—
  - (i) £1,150; and
  - (ii) the “actual fees”, being the amount of fees charged to the student in respect of an academic year of the designated distance learning course; and
- (b) a grant not exceeding £250 for books, travel and other expenditure in connection with the designated distance learning course.

(2) An eligible distance learning student does not qualify for support under paragraph (1)(b) if the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.

(3) An eligible distance learning student does not qualify for support under this regulation if—

- (a) he is a disabled student; and
- (b) there has been made to him or paid to him in connection with the designated distance learning course—
  - (i) a healthcare bursary the amount of which is calculated by reference to his income; or
  - (ii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income.

(4) An eligible distance learning student does not qualify for support under this regulation unless the Department considers that he is undertaking the designated distance learning course in Northern Ireland.

(5) An eligible distance learning student does not qualify for support under this regulation if he has undertaken one or more distance learning courses for eight academic years in aggregate and he has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (6).

(6) The loans and grants are—

- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course pursuant to regulations made under Article 3 of the Order;
- (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a distance learning course by the Department of Innovation, Universities and Skills (formerly known as Department for Education and Skills) pursuant to regulations made under section 22 of the Teaching and Higher Education Act 1998; or
- (c) a loan in respect of an academic year of a distance learning course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.

(7) An eligible distance learning student does not qualify for support under this regulation if he holds a first degree from—

- (a) an educational institution in the United Kingdom; or
  - (b) an educational institution in the Republic of Ireland for which he received financial support under previous regulations.
- (8) For the purposes of paragraph (7), a degree is not to be treated as a first degree where—
- (a) it is a degree (other than an honours degree) that has been awarded to an eligible distance learning student who has completed the required modules, examinations or other forms of assessment for his first degree course; and
  - (b) the eligible distance learning student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

### **Amount of support**

**107F.**—(1) Subject to paragraph (2) and regulation 107L(6), the amount of support payable in respect of an academic year is as follows—

- (a) the maximum amount of support available under regulation 107E(1) is payable if at the date of his application the eligible distance learning student or his partner is entitled—
  - (i) under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to income support or housing benefit; or
  - (ii) under Part II of the Jobseekers (Northern Ireland) Order 1995 to income-based jobseeker's allowance or under section 1 of the Employment and Training (Northern Ireland) Act 1950 to new deal allowance; or
  - (iii) under Article 30A of the Rates (Northern Ireland) Order 1977(a) to rates relief;
- (b) where the relevant income is less than £15,700, the maximum amount of support available under regulation 107E(1) is payable;
- (c) where the relevant income is £15,700, the maximum amount of support available under regulation 107E(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 107E(1)(a);
- (d) where the relevant income exceeds £15,700 but is less than £23,680, the maximum amount of support available under regulation 107E(1)(b) is payable and the amount of support payable under regulation 107E(1)(a) is the amount determined in accordance with paragraph (2);
- (e) where the relevant income is £23,680, the maximum amount of support available under regulation 107E(1)(b) is payable and the amount of support payable under regulation 107E(1)(a) is £50;
- (f) where the relevant income exceeds £23,680 but is less than £24,280, the maximum amount of support available under regulation 107E(1)(b) is payable and no support is payable under regulation 107E(1)(a);
- (g) where the relevant income is £24,280 or more but less than £26,180, no support is available under regulation 107E(1)(a) and the amount of support payable under regulation 107E(1)(b) is the amount left after deducting from the maximum amount of support available under regulation 107E(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £24,280;
- (h) where the relevant income is £26,180, no support is payable under regulation 107E(1)(a) and the amount of support payable under regulation 107E(1)(b) is £50;

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(a) S.I. 1977/2157 (N.I. 28)

- (i) where the relevant income exceeds £26,180, no support is payable under regulation 107E(1).

(2) Where paragraph (1)(d) applies, the amount of support payable under regulation 107E(1)(a) is determined by deducting from the maximum amount of support available under regulation 107E(1)(a) one of the following amounts—

- (a) £50 plus a further £1 for each complete £7.60 by which the relevant income exceeds £15,700; or
- (b) where the actual fees are less than £1,150, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between £1,150 and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under regulation 107E(1)(a) is payable).

### **Interpretation of regulation 107F**

**107G.**—(1) For the purposes of regulation 107F—

- (a) subject to sub-paragraph (b), “partner” means any of the following—
  - (i) the spouse of an eligible distance learning student;
  - (ii) the civil partner of an eligible distance learning student;
  - (iii) a person ordinarily living with an eligible distance learning student as if he were his spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which he is being assessed for support and where he began the specified designated distance learning course before 1st September 2005;
  - (iv) a person ordinarily living with an eligible distance learning student as if he were his spouse or civil partner where an eligible distance learning student begins the specified designated distance learning course on or after 1st September 2005;
- (b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—
  - (i) in the opinion of the Department, that person and the eligible distance learning student are separated; or
  - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible distance learning student;
- (c) “relevant income” has the meaning given in paragraph (2).

(2) Subject to paragraph (3), an eligible distance learning student’s relevant income is equal to his financial resources in the preceding financial year less—

- (i) £2,000 in respect of his partner;
- (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his partner; and
- (iii) £1,000 in respect of each other child who is dependent on the student or his partner.

(3) Where the Department is satisfied that an eligible distance learning student’s financial resources in the preceding financial year are greater than his financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, it may assess that student’s financial resources by reference to those resources in the current financial year.

(4) In this regulation, an eligible distance learning student’s financial resources in a financial year means the aggregate of his income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student’s partner.

(5) In this regulation—

- (a) “child” in relation to an eligible distance learning student includes any child of his partner and any child for whom he has parental responsibility;
- (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person is being assessed for support;
- (c) “dependent” means wholly or mainly financially dependent;
- (d) “financial year” means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;
- (e) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002;
- (f) “preceding financial year” means the financial year immediately preceding the current financial year;
- (g) “specified designated distance learning course” means the course in respect of which the person is applying for support or, where the student’s status as an eligible distance learning student has been transferred to the current designated distance learning course as a result of one or more transfers of that status by the Department from a distance learning course (the “initial course”) in connection with which the Department determined the student to be an eligible distance learning student pursuant to regulations made under Article 3 of the Order, the specified designated distance learning course is the initial course.

#### **Disabled distance learning students’ allowance**

**107H.**—(1) An eligible distance learning student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Department is satisfied he is obliged to incur by reason of a disability to which he is subject in respect of his undertaking a designated distance learning course.

(2) An eligible distance learning student does not qualify for the grant under this regulation if the only paragraph in Part 2 of Schedule 2 into which he falls is paragraph 9.

(3) An eligible distance learning student does not qualify for the grant under this regulation in respect of any academic year that is a bursary year.

(4) An eligible distance learning student does not qualify for the grant under this regulation unless the Department considers that he is undertaking the designated distance learning course in Northern Ireland.

(5) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Department considers appropriate in accordance with the student’s circumstances.

(6) The amount of the grant under this regulation must not exceed—

- (a) £12,420 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £4,905 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
- (c) the additional expenditure incurred—
  - (i) within the United Kingdom for the purpose of attending the institution;
  - (ii) within or outside the United Kingdom for the purpose of attending, as a part of his course, any period of study at an overseas institution or for the purpose of attending the Institute;
- (d) £1,640 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

### **Applications for support**

**107I.**—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated distance learning course by completing and submitting to the Department an application in such form as the Department may require.

(2) The application must be accompanied by—

- (a) a declaration completed by the academic authority; and
- (b) such additional documentation as the Department may require.

(3) The Department may take such steps and make such inquiries as he considers necessary to determine whether the applicant is an eligible distance learning student, whether he qualifies for support and the amount of support payable, if any.

(4) The Department must notify the applicant of whether he qualifies for support and, if he does qualify, the amount of support payable in respect of the academic year, if any.

(5) The general rule is that the application must reach the Department within a period of six months beginning with the first day of the academic year of the course in respect of which it is submitted.

(6) The general rule does not apply where—

- (a) one of the events listed in paragraph (4) of regulation 107B occurs after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Department within a period of six months beginning with the day on which the relevant event occurred;
- (b) the applicant is applying for the disabled distance learning students’ allowance, in which case the application must reach the Department as soon as is reasonably practicable; or
- (c) the Department considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Department not later than such date as it specifies.

### **Declarations provided by academic authorities**

**107J.**—(1) Subject to paragraph (2), the academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Department to accompany the application for support.

(2) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(3) In this Part, “declaration” means—

- (a) where the applicant is applying for support in connection with the designated distance learning course for the first time, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has undertaken at least two weeks of the designated distance learning course;
- (b) in any other case, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has enrolled to undertake the academic year of the designated distance learning course in respect of which he is applying for support.

(4) In this regulation, “course information” means—

- (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
- (b) certification by the academic authority that it considers the applicant is undertaking the designated distance learning course in Northern Ireland; and

- (c) in any case where the applicant is a disabled student, certification by the academic authority that it considers the applicant has chosen to undertake the designated distance learning course for a reason other than he is unable to attend a designated course for a reason which relates to his disability.

### **Information**

**107K.** Schedule 4 deals with the provision of information.

### **Transfer of status**

**107L.**—(1) Where an eligible distance learning student transfers to another distance learning course, the Department must transfer the student's status as an eligible distance learning student to that course where—

- (a) it receives a request from the eligible distance learning student to do so;
- (b) it is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
- (c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

- (a) the eligible distance learning student starts to undertake another designated distance learning course at the institution;
- (b) the eligible distance learning student starts to undertake a designated distance learning course at another institution; or
- (c) after commencing a designated distance learning course for a first degree (other than an honours degree) the eligible distance learning student is, before the completion of that course, admitted to a designated distance learning course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible distance learning student who transfers under paragraph (1) shall receive in connection with the academic year of the course to which he transfers the remainder of the support for which the Department has determined he qualifies in respect of the academic year of the course from which he transfers.

(4) The Department may re-assess the amount of support payable after the transfer.

(5) An eligible student who transfers under paragraph (1) after the Department has determined his support in connection with the academic year of the course from which he is transferring but before he completes that year may not apply for another grant under regulation 107E(1)(b) or regulation 107H in connection with the academic year of the course to which he transfers.

(6) Where a student transfers under paragraph (1), the maximum amount of support under regulation 107E(1)(a) in respect of the academic years to and from which he transfers is the amount of support available in connection with the course with the highest actual fees as defined in regulation 107E.

### **Conversion of status – eligible students not in attendance on a designated course**

**107M.**—(1) Where the Department determined before 21st September 2007 that a student—

- (a) is an eligible student; but
- (b) as he is undertaking but not in attendance, or treated as being in attendance, on a designated course—
  - (i) qualifies only for disabled students' allowance in connection with that course; or

- (ii) does not qualify for any support under Parts 4 to 6 in connection with that course,

the Department must convert his status to that of an eligible distance learning student in accordance with this regulation.

(2) The Department must convert the status of an eligible student to whom paragraph (1) applies to that of an eligible distance learning student where—

- (a) he is satisfied that the student is undertaking a designated distance learning course in Northern Ireland; and
- (b) the period of eligibility has not terminated.

(3) The Department must determine, in accordance with this Part, the amount of support payable under regulation 107E in respect of the current academic year to a student whose status is converted under paragraph (2).

(4) The following applies to a student who falls within paragraph (1)(b)(i) and whose status is converted under paragraph (2)—

- (a) where the Department has determined to pay an amount of disabled students' allowance to the student under Chapter 3 of Part 5 ("the previous amount") in respect of the current academic year, no payment in respect of that amount of grant must be made on or after 21st September 2007;
- (b) the maximum amount of disabled distance learning students' allowance to which the student is entitled in connection with his undertaking a designated distance learning course in the current academic year is the greater of the following amounts—
  - (i) the previous amount; and
  - (ii) the "actual amount" being the maximum amount of disabled distance learning students' allowance the Department determines is payable to the student; and
- (c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 before 21st September 2007, the maximum amount of disabled distance learning students' allowance payable to him for that purpose for the current academic year is reduced by the amount of grant paid to him for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil.

(5) In this regulation "current academic year" means an academic year beginning on or after 21st September 2007 but before 1st September 2008.

#### **Conversion of status – eligible students transferring to designated distance learning courses**

**107N.**—(1) Subject to paragraph (2), where an eligible student ceases to undertake a designated course and transfers to a designated distance learning course at the same or at another institution, the Department must convert his status as an eligible student to that of an eligible distance learning student in connection with the course to which he is transferring where—

- (a) he receives a request from the eligible distance learning student to do so; and
- (b) the period of eligibility has not terminated.

(2) This regulation does not apply to a student to whom regulation 107M applies.

(3) The following applies to a student who transfers under paragraph (1)—

- (a) where the Department has determined to pay an amount of disabled students' allowance to the student under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible distance learning student;

- (b) the maximum amount of disabled distance learning students' allowance to which the student would, apart from this regulation, be entitled in connection with his undertaking a designated distance learning course in respect of that academic year is reduced by one third where the student became an eligible distance learning student in the second quarter of the academic year and by two thirds where he became such a student in a later quarter of that year;
- (c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled distance learning students' allowance payable to him for that purpose is reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or negative amount that amount is nil; and
- (d) where immediately before he became an eligible distance learning student he was eligible to apply, but had not applied for a loan for living costs in respect of that year, or had not applied for the maximum amount of increased maximum to which he was entitled, he may apply for such a loan or such additional amount of loan as if he had continued to be an eligible student; and in the circumstances mentioned in paragraph (4) the maximum amount or increase maximum amount of such loan for the academic year is reduced in accordance with that paragraph.

(4) Where the request under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be) is reduced by two thirds, and where the request is made during the second quarter of that year that amount is reduced by one third.

#### **Conversion of status – eligible distance learning students transferring to designated courses**

**107O.**—(1) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated course at the same or at another institution, the Department must convert his status as an eligible distance learning student to that of an eligible student in connection with the course to which he is transferring where—

- (a) it receives a request from the eligible distance learning student to do so; and
- (b) the period of eligibility has not terminated.

(2) The following applies to a student who transfers under paragraph (1)—

- (a) where the Department has determined to pay an amount of disabled distance learning students' allowance to the student in periodic instalments no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student became an eligible student;
- (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers is ignored in determining the amount of support to which he may be entitled in respect of that year under Parts 4 to 6;
- (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he became such a student in a later quarter of that year; and
- (d) where an amount of disabled distance learning students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable to him under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled distance learning students' allowance paid to him for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

### **Payment of grants for fees**

**107P.**—(1) Subject to paragraphs (2) and (3), the Department must pay the grant in respect of fees for which the student qualifies to the appropriate academic authority after a valid request for payment has been received.

(2) The Department may make payments under paragraph (1) at such times and in such instalments as it sees fit.

(3) The Department may make provisional payments under paragraph (1) in such cases as it deems appropriate.

### **Payment of grants for books, travel and other expenditure and disabled distance learning students' allowance**

**107Q.**—(1) Payments of the grant for books, travel and other expenditure and the disabled distance learning students' allowance may be made in such manner as the Department considers appropriate and it may make it a condition of entitlement to payment that the eligible distance learning student must provide it with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Department cannot make a final assessment on the basis of the information provided by the student, it may make a provisional assessment and payment of the grant for books, travel and other expenditure and the disabled distance learning students' allowance.

(3) The Department may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance in instalments.

(4) Subject to paragraph (5), the Department may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance at such times as it considers appropriate.

(5) The Department must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the disabled distance learning students' allowance before it has received a declaration under regulation 107J unless an exception applies.

(6) An exception applies if—

- (a) a disabled distance learning students' allowance is payable in which case that particular grant may be paid before the Department has received a declaration;
- (b) the Department has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

### **Overpayments**

**107R.**—(1) Any overpayment of a grant in respect of fees is recoverable by the Department from the academic authority.

(2) An eligible distance learning student must, if so required by the Department, repay any amount paid to him under this Part which for whatever reason exceeds the amount of grant to which he is entitled under this Part.

(3) The Department must recover an overpayment of grant for books, travel and other expenditure and disabled distance learning students' allowance unless it considers that it is not appropriate to do so.

(4) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the student from time to time pursuant to regulations made by the Department under Article 3 of the Order;
- (b) taking such other action for the recovery of an overpayment as is available to the Department.

(5) A payment of the disabled distance learning students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Department decides otherwise.

(6) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the disabled distance learning students' allowance unless the Department decides otherwise.

(8) The circumstances are—

- (a) the Department applies all or part of the disabled distance learning students' allowance to the purchase of specialist equipment on behalf of the eligible distance learning student;
- (b) the student's period of eligibility terminates after the relevant date; and
- (c) the equipment has not been delivered to the student before the period of eligibility terminated.

(9) The circumstances are—

- (a) the eligible distance learning student's period of eligibility terminates after the relevant date; and
- (b) a payment of the disabled part-time students' allowance in respect of specialist equipment is made to the student after the period of eligibility terminated.

(10) Where there is an overpayment of the disabled distance learning students' allowance, the Department may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if it considers it is appropriate to do so."

**18.—**(1) Regulation 108 (Eligible part-time students) shall be amended as provided by paragraphs (2) to (4).

(2) For paragraph (10), there shall be substituted—

“(10) Where—

- (a) the Department determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the current part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of his spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which he is applying for support.”.

(3) For paragraph (11), there shall be substituted—

“(11) Where—

- (a) the Department determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was an eligible part-time student in connection with an application for support for an earlier year of the current part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which his status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the current part-time course; and

- (d) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which he is applying for support.”.

- (4) After paragraph (13)(b), there shall be inserted—

“(bb) a designated part-time course and a designated distance learning course;”.

**19.**—(1) Regulation 109 (Students becoming eligible during the course of the academic year) shall be amended as provided by paragraphs (2) and (3).

- (2) In paragraph (2) after “(f),” there shall be inserted “(fa),”.

- (3) After paragraph (2), there shall be inserted—

“(2A) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (fa), (g) or (h) of paragraph (3) occurs in the course of an academic year—

- (a) a student may qualify for disabled part-time students' allowance in respect of that academic year in accordance with this Part; and
- (b) disabled part-time students' allowance is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.”.

**20.**—(1) Regulation 113(5)(a) (Amount of assistance) shall be amended as provided by paragraphs (2) and (3).

- (2) In paragraph (5)(a)(ii) after “new deal allowance;” there shall be inserted “or”.

- (3) After paragraph (5)(a)(ii), there shall be inserted—

“(iii) under Article 30A of the Rates (Northern Ireland) Order 1977 to rates relief;”

**21.**—(1) Regulation 121 (Conversion of status) shall be amended as provided by paragraphs (2) and (3).

- (2) After paragraph (4), there shall be inserted—

“(4A) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated part-time course at the same or at another institution, the Department must convert the student's status as an eligible distance learning student to that of an eligible part-time student in connection with the course to which he is transferring where—

- (a) it receives a request from the eligible distance learning student to do so; and
- (b) the period of eligibility has not terminated.

(4B) Where, before completing the designated distance learning course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course is to be treated as satisfying regulation 110(1)(b) and (c) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period ordinarily required to complete the remainder of the designated distance learning course from which the student transfers.

(4C) Subject to paragraph (4D), a student who transfers under paragraph (4A) shall receive in connection with the academic year of the course to which he transfers the remainder of the support for which the Department has determined he qualifies under Part 10A in respect of the academic year of the designated distance learning course from which he transfers.

(4D)The Department may re-assess the amount of support payable after the transfer.

(4E) An eligible student who transfers under paragraph (4A) after the Department has determined his support in connection with the academic year of the distance learning course from which he is transferring but before he completes that year—

- (a) may not apply for a grant under regulation 112(1)(b) if he has already applied for a grant under regulation 107E(1)(b);
- (b) may not apply for a grant under regulation 116 if he has already applied for a grant under regulation 107H.

(4F) Where a student transfers under paragraph (4A), the total amount of assistance paid to the student under regulations 107E(1)(a) and 112(1)(a) in respect of the academic years from and to which he transfers must not exceed the amount of support determined to be payable to the student under regulation 107E(1)(a).”.

(3) After paragraph (6), there shall be inserted—

“(6A) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated distance learning course at the same or at another institution, the Department must convert that student’s status as an eligible part-time student to that of an eligible distance learning student in connection with the course to which he is transferring where—

- (a) it receives a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not terminated.

(6B) Subject to paragraph (6C), a student who transfers under paragraph (6A) shall receive in connection with the academic year of the course to which he transfers the remainder of the support for which the Department has determined he qualifies under Part 11 in respect of the academic year of the designated part-time course from which he transfers.

(6C)The Department may re-assess the amount of support payable after the transfer.

(6D) An eligible student who transfers under paragraph (6A) after the Department has determined his support in connection with the academic year of the distance learning course from which he is transferring but before he completes that year—

- (a) may not apply for a grant under regulation 107E(1)(b) if he has already applied for a grant under regulation 112(1)(b);
- (b) may not apply for a grant under regulation 107H if he has already applied for a grant under regulation 116.

(6E) Where a student transfers under paragraph (6A), the total amount of assistance paid to the student under regulations 107E(1)(a) and 112(1)(a) in respect of the academic years from and to which he transfers must not exceed the maximum amount of support determined to be payable to the student under regulation 107E(1)(a).”.

22. After regulation 125(15)(b) (Eligible postgraduate students) there shall be inserted—

“(bb) a designated postgraduate course and a designated distance learning course;”.

23. In Schedule 2 paragraph 4(2)(b) (Eligible students) for the word “of” where it first occurs there shall be substituted “or”.

24. In Schedule 5 paragraph 5(1)(b) (Financial Assessment) for the words “pursuant to any enactment or rule of law”, there shall be substituted “pursuant to any statutory provision”.

Sealed with the Official Seal of the Department for Employment and Learning on 22 August 2007



*Mr Fergus Devitt*  
A senior officer of the Department for Employment and Learning

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations further amend the Education (Student Support) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 195, “the principal Regulations”) as amended by the Education (Student Support) (Amendment) Regulations 2007 (S.R. 2007 No. 293).

These Regulations amend the principal Regulations to make provision for the payment of support to students who are undertaking designated distance learning courses in Northern Ireland. A designated distance learning course is a course which has been designated under the new regulation 107C by the Department (regulation 14).

The support payable to eligible distance learning students is set out in the new regulations 107E (grant in respect of fees and grant in respect of books, travel and other expenditure) and 107H (disabled distance learning students’ allowance). Disabled distance learning students’ allowance will be paid to students undertaking full-time distance learning courses under the new regulation 107H rather than disabled students’ allowance under regulation 41.

Students previously in receipt of disabled students’ allowance in connection with undertaking but not attending a designated course will have their status as eligible students converted to that of eligible distance learning students in accordance with the new regulation 107M. This provision will also apply to students who were previously determined to be eligible students but who did not qualify for support solely because they were not in attendance on a designated course.

These Regulations make various additional consequential amendments to the principal Regulations in light of the introduction of the provision of support for eligible distance learning students.

These Regulations also amend regulation 30 of the principal Regulations to make clear that an old system student attending a course at Guildhall School of Music and Drama or Heythrop College cannot qualify for a grant for fees which exceeds the actual fees payable by him (regulation 8).

These Regulations also amend regulation 49 of the principal Regulations to clarify that an eligible student may qualify for a grant for dependants where the relevant dependant is dependent on him or him and his partner together (regulation 13).

These Regulations also make provision to enable certain part-time students to qualify for disabled part-time students’ allowance during the course of an academic year (regulation 16).

These Regulations also include a number of minor technical amendments and drafting omissions to the principal Regulations (regulations 10, 15, 16, 23 and 24).

A full Regulatory Impact Assessment has not been produced for these Regulations as they have no impact on the costs of business.