

## **EXPLANATORY MEMORANDUM TO**

### **EDUCATION (STUDENT SUPPORT) (No.2) REGULATIONS (NORTHERN IRELAND) 2009 (AMENDMENT) (No. 2) REGULATIONS (NORTHERN IRELAND) 2012**

#### **SR 2012 No. 398**

#### **1. Introduction**

**1.1** This explanatory memorandum has been prepared by the Department for Employment and Learning (“the Department”) to accompany SR 2012 No. 398 which is laid before the Northern Ireland Assembly.

**1.2** The statutory rule is made under Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998 and is subject to the negative resolution procedure.

**1.3** The rule will come into operation on 1 December 2012.

#### **2. Purpose**

This rule provides for support for students taking designated higher education courses in respect of the academic year beginning on or after 1 September 2013 and make amendments to the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009 (“the 2009 Regulations”). The effect of the rule is to:

- a. increase the amounts of grants for tuition fees (for those students still eligible for such grants) and student loans for tuition fees in line with inflation for the 2013/14 academic year for full-time students;
- b. freeze grants and loans for living costs at academic year 2012/13 rates for full-time students and freeze grants for fees, course grants and disabled students’ allowances for part-time and full-time distance learning students;
- c. freeze disabled students’ allowances for postgraduate students; and
- d. introduce minor policy and technical changes required to tighten up existing policy.

#### **3. Background**

The rule makes provision for support available in relation to an academic year beginning on or after 1st September 2013 and amends some of the provisions in the 2009 Regulations.

The policy changes effected by this rule are;

### **3.1 Support for students starting distance learning courses in Northern Ireland who subsequently move to England, Scotland or Wales.**

The Regulations are being amended to make it clear that full-time and part-time distance learning students living in Northern Ireland who establish eligibility for student support at the start of their course and then move to another part of the UK will continue to receive student support from Student Finance NI, if they continue to undertake the course from the United Kingdom (UK). If a student no longer resides in the UK, then their support will cease.

### **3.2 Changes to the amount of support payable when a student becomes eligible for support during the course of an academic year.**

The Regulations are being amended to specify that maintenance grant, special support grant, childcare grant, grants for travel and disabled students' allowances (excluding that for major items of special equipment) will be payable in respect of the academic quarters that begin after the student become eligible, as is currently the case for maintenance loans, adult dependants' grant and parents' learning allowance.

The aim of these changes is to simplify the existing system by aligning the period of entitlement across all types of grants for living and other costs to the academic quarters following the date the student becomes eligible for support. Eligibility for major items of specialist equipment will continue to be assessed as an annual entitlement and tuition fee loans will remain payable for the entire year.

### **3.3 Using Income from the Prior Financial Year as a basis for the Dependants' Grants Income Assessment.**

Currently eligible full-time students with dependants can apply for additional support in the form of adult dependants' grant, childcare grant or parents' learning allowance. Applicants for these grants undergo a second separate income assessment, in addition to the income assessment required to determine entitlement for living cost support. This second income assessment is currently based on the student's partners, child's or adult dependant's estimated net income for the current academic year.

The Regulations are being amended so that for new and existing students in the 2013/14 academic year, the basis for the dependants' grants income assessment changes from net income for dependants in the current academic year to (a) residual income based on taxable income from the prior financial year for partners and adult dependants and (b) net income from the prior financial year for dependent children.

### **3.4 Removal of the provision for students and their partners to have existing prior financial obligations taken into account in the Dependants' Grants Income Assessment.**

Currently, as part of the dependants' grants income assessment, students or their partners can have certain ongoing prior financial commitments such as rent or mortgage payments taken into account to produce a lower net income. As part of the assessment,

students are required to estimate the cost of such ongoing recurring financial obligations for the current year, and provide proof of actual cost at the end of the year. Once the current recurring financial obligations have been taken into account, a set disregard (known as a threshold) is then deducted from the net household income in line with family circumstances.

The Regulations are being amended to remove this facility to declare current recurring financial commitments from the dependants' grants income assessment for new full-time students and (ii) to increase the disregard thresholds which are applied for new full-time students to mitigate against any consequent reduction in the amount of adult dependants' grant, childcare grant or parents' learning allowance to which a student would be entitled under the new arrangements.

These changes will simplify the targeted support application process, with the aim of reducing overpayments and significantly reducing the evidential burden on students.

### **3.5 The childcare grant paid to students before details of a named childcare provider are submitted.**

Childcare grant is payable in advance and students are required to provide an estimate of the cost of their childcare, alongside estimates of their income and expenditure. Students are permitted to make an initial application without specifying a named childcare provider, however this can make it difficult to estimate cost, leading to potential overpayments of childcare grant which ultimately have to be paid back.

In order to mitigate against this, the Regulations are being amended to introduce a phased approach to the amount of childcare grant payable to students who have not identified a childcare provider at the time of their initial application. The new limit will be £115 a week or 85% of actual costs, whichever is the lower and will be limited to one quarter (term) of the academic year. Once the provider details are supplied, the student will have their application reassessed. Any shortfall will be reimbursed and the childcare grant paid thereafter at the appropriate amount.

The aim of this change is to reduce the number of overpayments of childcare grant and consequently to reduce the number of students required to repay overpayments of grant whilst they are still studying. The change will not impact on students' overall childcare entitlement for the academic year.

### **3.6 Interpretation of 'ordinarily resident'**

'Ordinarily resident' is not currently defined in the Regulations but it is implicit that the term should be interpreted to include only lawful residence. The Regulations are therefore being amended to make it clear that 'ordinarily resident' means "lawfully" resident.

### **3.7 Change to definition of a 'parent' in relation to residence.**

Schedule 2 to the Regulations identifies different categories of students who can be

charged ‘home’ or ‘regulated’ fees and who are eligible for student support. This includes the children of certain categories of students. ‘Parent’ is also defined within the schedules to the above regulations.

An amendment is being made to the interpretation of ‘parent’ in the Regulations to make clear that only natural parents and those who are legally responsible for a “child” will be treated as “parents” for the purpose of these Regulations.

**4. Consultation**

There is no statutory requirement to consult on these Regulations as they do not give effect to policy changes but facilitate policy implementation.

**5. Equality Impact Assessment**

A Section 75 Equality of Opportunity Screening exercise has been carried out and it is our view that the proposals will not have an adverse impact on any of the Section 75 categories.

**6. Regulatory Impact Assessment**

A Regulatory Impact Assessment has not been prepared for this rule as it has no adverse impact on business, charities or voluntary bodies.

**7. Financial Implications**

The financial implications of the student support package for academic year 2013/14 have been costed and take into account the financial restrictions in the current CSR period.

**8. Section 24 of the Northern Ireland Act 1998**

Departmental Solicitor’s Office has confirmed that the making of this rule complies with Section 24 of the NI Act.

**9. EU Implications**

Not applicable.

**10. Parity or Replicatory Measures**

Historically, our Regulations were made in broad parity with England and Wales but following the wholesale changes that were implemented in England and Wales from academic year 2012/13 as a result of the Browne Review; this is no longer the case.

**11. Additional Information**

Not applicable.

**12. Contact**

John Neill at the Department for Employment and Learning, Tel: 028 90 257712 or email: [john.neill@delni.gov.uk](mailto:john.neill@delni.gov.uk) can answer any queries regarding this Rule.