

2005 No. 5

EDUCATION, NORTHERN IRELAND

**The Education (Student Support) (No. 2) Regulations 2002
(Amendment) Regulations 2005**

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| <i>Made</i> - - - - | <i>7th January 2005</i> |
| <i>Laid before Parliament</i> | <i>17th January 2005</i> |
| <i>Coming into force</i> - - | <i>1st March 2005</i> |

The Secretary of State for Education and Skills, in exercise of the powers conferred upon her by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(a), hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Education (Student Support) (No. 2) Regulations 2002 (Amendment) Regulations 2005 and shall come into force on 1st March 2005.
2. In these Regulations “the 2002 Regulations” means the Education (Student Support) (No. 2) Regulations 2002(b).

Amendment of the 2002 Regulations

3. The 2002 Regulations are amended as follows.
4. In regulation 39 substitute for paragraph (2) the following—
 - “(2) In Northern Ireland—
 - (a) there shall not be treated as part of a bankrupt’s estate or claimed for his estate under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989(c) any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive after the commencement of the bankruptcy, whether his entitlement arises before or after the commencement of his bankruptcy; and
 - (b) there shall not be included in a person’s bankruptcy debts any debt or liability to which he is or may become subject in respect of any sum payable to an eligible student by way of a loan and which he receives or is entitled to receive—
 - (i) in the case of a bankruptcy commencing before 1st March 2005, after the commencement of the bankruptcy; or

(a) 1998 c. 30; section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and the Higher Education Act 2004 (c. 8), section 42.
(b) S.I. 2002/3200, to which there are amendments not relevant to these Regulations.
(c) S.I. 1989/2405 (N.I. 19); Article 283 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), Schedule 1, paragraph 11.

- (ii) in the case of a bankruptcy commencing on or after 1st March 2005, before or after the commencement of the bankruptcy.”.

7th January 2005

Kim Howells
Minister of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Support) (No. 2) Regulations 2002 (the “2002 Regulations”). The 2002 Regulations provide for support for students taking designated higher education courses.

Regulation 4 amends regulation 39 of the 2002 Regulations to provide that in the event of bankruptcies arising on or after 1st March 2005 in Northern Ireland, any debt arising from a student loan is protected from the effects of proceedings under the Insolvency (Northern Ireland) Order 1989, irrespective of when that debt arose. Previously, only debt in respect of sums received by way of student loan after the commencement of bankruptcy proceedings were protected from the effects of such proceedings. Regulation 39(2)(b)(i) preserves the current position for those bankruptcies occurring before 1 March 2005. Regulation 39(2)(b)(ii) sets out the new provision for future bankruptcies.

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