
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 298

EDUCATION

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

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

Coming into operation 1st September 1998

The Department of Education, in exercise of the powers conferred on it by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(1) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Part I

General

Citation and commencement

1. These Regulations may be cited as the Education (Student Support) Regulations (Northern Ireland) 1998 and shall come into operation on 1st September 1998.

Interpretation

2.—(1) In these Regulations—

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

“accelerated course” means a course of two academic years duration in which persons undertaking the course are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year;

“borrower” means a person to whom a loan has been made;

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

(1) S.I.1998/1760 (N.I. 14); see Article 2(2) of S.I. 1986/594 (N.I. 3), as read with Article 2(4) of S.I. 1998/1760 (N.I. 14) for the definitions of “prescribed”, “regulations” and “the Department”

- “course” means a higher education course or a further education course;
- “designated course” means a course designated by regulation 4(1) or by the Department under regulation 4(4);
- “disability related benefit” means long term incapacity benefit or short term incapacity benefit at the higher rate, severe disablement allowance, disability living allowance, industrial industries benefit and disability working allowance, all payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992(2) or the Social Security Contributions and Benefits Act 1992(3) or the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable under the Income Support (General) Regulations (Northern Ireland) 1987(4) or the Income Support (General) Regulations 1987(5);
- “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(6) as adjusted by the Protocol signed at Brussels on 17th March 1993(7);
- “eligible” in relation to any student means eligible for a loan in accordance with regulation 3;
- “eligibility form” means the form issued under regulation 5(4);
- “European Community” means the territory comprised by the member States of the European Community as constituted from time to time;
- “European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;
- “hardship loan” shall be construed in accordance with regulation 10;
- “the Islands” means the Channel Islands and the Isle of Man;
- “loan” means a loan made under the Order (whether made before or after the coming into operation of these Regulations) towards a student’s maintenance, including the interest accrued on the loan and any changes made in connection with it;
- “loan application form” shall be construed in accordance with regulation 5(8);
- “the Order” means the Education (Student Support) (Northern Ireland) Order 1998;
- “periods of work experience” means periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution;
- “quarter”, in relation to an academic year, means one of the periods in that year from 1st January to 31st March, 1st April to 30th June, 1st July to 31st August, or 1st September to 31st December;
- “refugee” means a person who is recognised by Her Majesty’s government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(8) as extended by the Protocol thereto which entered into force

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- (2) 1992 c. 7, as amended by the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), Articles 3 to 5, 7, 8, 10 to 12 and Schedules 1 and 2
- (3) 1992 c. 4, as amended by the Social Security (Incapacity for Work) Act 1994 c. 18, sections 1 to 3, 5, 6, 8 to 11 and Schedules 1 and 2
- (4) S.R. 1987 No. 459 (See Parts III and IV of Schedule 2), the relevant amending regulations are S.R. 1988 Nos. 146 and 431, S.R. 1989 No. 395, S.R. 1990 No. 387, S.R. 1992 No. 6, S.R. 1993 Nos. 218 and 373, S.R. 1994 Nos. 327 and 474, S.R. 1995 Nos. 67, 86 and 367 and S.R. 1997 No. 113
- (5) S.I. 1987/1967 (See Parts III and IV of Schedule 2), the relevant amending regulations are S.I. 1988/663, 1988/2022, 1989/1678, 1991/1559, 1991/2742, 1993/1150, 1993/2119, 1994/2139, 1994/3061, 1995/482, 1995/516, 1997/543
- (6) Cmnd. 2073
- (7) Cmnd. 2183
- (8) Cmnd. 9171

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

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

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

“student loan account number” means the account number assigned by the lender to a loan made under the Order, the Education (Student Loans) (Northern Ireland) Order 1990⁽¹⁰⁾, the Teaching and Higher Education Act 1998⁽¹¹⁾, the Education (Student Loans) Act 1990⁽¹²⁾, or the Education (Scotland) Act 1980⁽¹³⁾.

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

(3) For the purposes of these Regulations a person shall be treated as ordinarily resident in the United Kingdom and Islands or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having parental responsibility for him, or any person having care of him when he is a child, is, or was temporarily employed outside the United Kingdom and Islands or, as the case may be, outside the European Economic Area and paragraph 7(c) of Schedule 1 shall not apply in the case of such a person.

(4) For the purposes of these Regulations an area which—

- (a) was previously not part of the European Community or the European Economic Area, but
- (b) at any time before or after these Regulations come into operation has become part of one or other or both of those areas

shall be considered to have always been part of the European Economic Area.

(5) In these Regulations a reference to an EEA migrant worker is a reference to a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom—

- (a) under Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement⁽¹⁴⁾; or
- (b) in circumstances where as a national of the United Kingdom he has an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the above mentioned Council Regulation.

⁽⁹⁾ Cmnd. 3906 (Out of print; photocopies are available, free of charge, from the Student Support Branch, Department of Education, Rathgael House, Balloo Road, Bangor, Co Down, BT19 7PR

⁽¹⁰⁾ S.I. 1990/1506 (N.I. 11) as amended by S.I. 1996/1274 (N.I. 1) Article 43 and Schedule 5 Part II; S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6

⁽¹¹⁾ 1998 c. 30

⁽¹²⁾ 1990 c. 6 amended by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 67; by the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraphs 12(2) and (3); by the Education Act 1994 (c. 30), Schedule 2, paragraph 9; by the Education (Student Loans) Act 1996 (c. 9), section 1(1) and the Schedule; by the Education Act 1996 (c. 56), Schedule 37, paragraph 98 and Schedule 38, and by the Education (Student Loans) Act 1998 (c. 1), sections 1 to 3

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

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

Part II

Eligibility

Eligible students

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

- (a) he is a person mentioned in Schedule 1;
- (b) the course he is attending is a designated course;
- (c) he is under the age of 50 years on the first day of the course;
- (d) he is not eligible to receive a loan in relation to the academic year under the Education (Student Loans) (Northern Ireland) Order 1990 or the Education (Student Loans) Act 1990;
- (e) subject to regulation 9(4), he has not received a relevant loan in relation to the academic year of another course which year ended after the first day of the academic year in question;
- (f) he is not eligible to receive, in relation to the academic year, any payment under a bursary or award of similar description bestowed on him in pursuance of Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹⁵⁾ the amount of which is not calculated by reference to his income;
- (g) he is not in breach of any obligation to repay any relevant loan; or
- (h) where he entered into an agreement for a relevant loan when he was under the age of 18 years, he has ratified the agreement.

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

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

Designated courses

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

- (a) mentioned in Schedule 2;
- (b) a full-time course;
- (c) of at least one academic year’s duration; and
- (d) wholly provided by an educational institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or is provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom.

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

- (a) which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere)—
 - (i) in the case of a course of one academic years' duration, for a period of at least 24 weeks; and
 - (ii) in the case of a course of two or more academic years' duration, for a period of at least 24 weeks in each academic year except the final year and of at least eight weeks in the final year; and
 - (b) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each academic year to an average of at least 21 hours for each week for which attendance is required for the purposes of sub-paragraph (a).
- (3) For the purposes of these Regulations a course is provided by an institution if it provides the teaching and supervision which comprises the course, whether or not it has entered an agreement with the student to provide the course.
- (4) For the purposes of Article 3 of the Order and regulation 3(1) the Department may designate courses of higher education which are not designated under paragraph (1).

Certificate of eligibility

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

- (2) Without prejudice to the generality of paragraph (1) an eligible student shall produce—
 - (a) if he was born in the United Kingdom, a certificate issued by the appropriate authority showing the date of his birth;
 - (b) if he was born outside the United Kingdom, a valid passport, unless he is a refugee or does not hold one, and in any event a letter or other document issued by a responsible person which contains particulars of his date, place and country of birth and his names at birth;
 - (c) a United Kingdom national insurance card, or some other document issued or sent to the student by a government department or agency or by an employer which refers to his national insurance number, unless he does not have such a number; and
 - (d) evidence from the institution providing the designated course he is attending that he has commenced attending that course and of the duration of that course.
- (3) The Department may take such steps and make such inquiries as it considers necessary to determine whether any student is an eligible student.
- (4) If the Department considers that a person is an eligible student it shall issue to the student an eligibility form for the student to complete.
- (5) An eligibility form shall include the following particulars—
 - (a) the full name of the student and his or her sex;
 - (b) the student's United Kingdom national insurance number, unless he does not have one;
 - (c) the student's most recent student loan account number, if any;
 - (d) if the student's full name at birth was different from the above, his full name at birth;
 - (e) the country in which the student was born;
 - (f) if the student was born in the United Kingdom, the place where his birth certificate was issued;
 - (g) the student's date of birth;

- (h) the student's home address and telephone number and any term-time address and telephone number if it is different and in such a case an indication to which address correspondence should be sent;
 - (i) whether the student was, on the first day of the designated course he is attending, ordinarily resident for the purposes of these Regulations in England and Wales, Scotland or Northern Ireland;
 - (j) the student's bank or building society sort code and account number, if any;
 - (k) the student's age on the first day of the designated course he is attending;
 - (l) the date on which the student expects to complete the course;
 - (m) whether the course is—
 - (i) for a Postgraduate Certificate of Education or Art Teacher's Certificate;
 - (ii) an accelerated course; or
 - (iii) another designated course;
 - (n) the name of the institution which provides the designated course the student is attending and, if any part of the course is provided by an institution other than that institution, and indication to that effect;
 - (o) the number of academic years of the designated course the student is attending, whether he is in the first, second, third or other of those years on the date the certificate is signed, and whether the academic years of the course begin in the autumn, the winter, the spring or the summer; and
 - (p) the matriculation or student number assigned to the student by the institution providing the designated course he is attending.
- (6) The student shall sign a declaration on the eligibility form that—
- (a) the particulars given in the eligibility form are correct to the best of his knowledge and belief; and
 - (b) he will notify the Department of any change in them.
- (7) If the Department is satisfied that the particulars in the eligibility form are correct and that the student is an eligible student it shall certify those matters to the best of its knowledge and belief and also certify the amount of loan to which it considers the student is entitled ("a certificate of eligibility").
- (8) The Department shall issue to each student whose eligibility it has certified under paragraph (7) an application form ("a loan application form") which identifies the certificate of eligibility relating to that student.

Part III

Loans for Maintenance

Application for a loan

6.—(1) An eligible student shall apply for a loan in relation to an academic year by completing and submitting to the Department a loan application form not later than one month before the end of that academic year.

(2) A loan application form submitted by a student under paragraph (1) shall include—

- (a) the student's full name and his or her sex;
- (b) the student's United Kingdom national insurance number, unless he does not have one;

- (c) his student loan account number, if he has applied for a loan before and the Department has informed him of his account number;
 - (d) details of the bank or building society account into which the loan will be paid, unless the student does not have such an account;
 - (e) the name, address and telephone number of two persons who know the student;
 - (f) a statement whether the student has ever been declared bankrupt or whether his estate has ever been sequestrated; and
 - (g) the amount the student wishes to borrow in relation to the academic year in respect of which the application is made not exceeding the relevant maximum amount specified in relation to his case in regulation 7.
- (3) A student shall sign a declaration on the loan application form submitted by him under paragraph (1) that—
- (a) the particulars given in the application form are correct to the best of his knowledge and belief;
 - (b) he will notify the Department of any change in them; and
 - (c) he will repay any amount lent to him, together with interest and applicable charges and penalties, in accordance with the Order and Regulations made thereunder from time to time.
- (4) If a loan application form submitted by any student under paragraph (1) is received by the Department more than 30 days after the date on which the certificate of eligibility in relation to that student is signed the Department shall inquire of the institution which provides the student's course whether the student is still attending that course, and not proceed with the application until the institution has satisfied it that the student is still attending the course.
- (5) The Department on being satisfied that any person is an eligible student in relation to an academic year shall lend him for his maintenance the amount requested by the student under paragraph (2) for that year in accordance with and subject to regulation 8.
- (6) Where a borrower has not in a loan application form requested the maximum amount of loan to which he is entitled under regulation 7 in relation to any academic year he may, on one further occasion only, apply to borrow an additional amount for that year provided that the additional amount, when added to the amount already applied for in the loan application form, shall not exceed the relevant maximum amount specified in relation to his case in regulation 7.
- (7) An application under paragraph (6) shall be made in writing not later than one month before the end of the academic year and paragraphs (2)(a) to (d), (3) and (4) shall apply to it as they apply to an application made in a loan application form.
- (8) The Department on being satisfied that a borrower who has made an application under paragraph (6) remains an eligible student and is entitled to borrow an additional amount for the academic year in question shall lend him the additional amount requested in accordance with and subject to regulation 8.

Amounts of loans

- 7.—(1) Subject to paragraphs (2) to (5) the maximum amount which may be lent to an eligible student in relation to any one academic year of a course shall be—
- (a) for a student who resides at the home of his parent, £2,325;
 - (b) for a student who does not reside at the home of his parent—
 - (i) if he attends a course provided by the University of London or by an institution within the area comprising the City of London and the metropolitan police district, £3,145;

(ii) otherwise £2,735.

(2) Subject to paragraphs (3) to (5) the maximum amount which may be lent to an eligible student in relation to an academic year which is the final year of a course other than an accelerated course shall be—

- (a) for a student who resides at the home of his parent, £1,970;
- (b) for a student who does not reside at the home of his parent—
 - (i) if he attends a course provided by the University of London or by an institution within the area comprising the City of London and the metropolitan police district, £2,565;
 - (ii) otherwise £2,265.

(3) Subject to paragraph (4) where the course which an eligible student attends includes a period of residence in a country other than the United Kingdom throughout the academic year, the maximum amount of the loan in relation to that academic year shall be £2,735 or if the year is the final year of the course £2,265.

(4) For the purposes of paragraphs (1) to (3) where a postgraduate course of initial training for teachers is of only one academic year's duration that year shall not be treated as the final year of the course, and for the purposes of paragraphs (1) and (2), a student's place of residence shall be his place of residence on the date of the certificate of eligibility given in relation to him.

(5) Where, in relation to an academic year, a student is eligible to receive any payment pursuant to any bursary or award of similar description made to him in pursuance of Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 the amount of which is calculated by reference to his income then, unless the course he is attending leads to qualification as a medical doctor or as a dentist, paragraphs (1) to (3) shall have effect as if £1,000 had been deducted from each of the amounts referred to therein.

Payments

8.—(1) The Department shall pay the amount to be lent to an eligible student under regulation 6(5) in instalments in accordance with the following provisions—

- (a) if the first instalment is paid during the first quarter of the academic year, the amount shall be paid in three equal instalments;
- (b) if the first instalment is paid during the second quarter of the academic year, the amount shall be paid in two instalments, the first amounting to two thirds of the amount, and the second one third of the amount; and
- (c) if the first instalment is paid during the third or fourth quarter of the academic year, the amount shall be paid in one instalment.

(2) The Department shall pay any additional amount to be lent to an eligible student under regulation 6(8) in instalments in accordance with the following provisions—

- (a) if the first instalment is paid during the first quarter of the academic year, it shall be paid in three equal instalments, the second and third of which shall be paid with the second and third instalments referred to in paragraph 1(a);
- (b) if the first instalment is paid during the second quarter of the academic year, it shall be paid in two instalments, the first amounting to two thirds of the additional amount to be lent, and the second one third of that amount, the second to be paid with the second instalment referred to in paragraph 1(b); and
- (c) if the first instalment is paid during the third or fourth quarter of the academic year, it shall be paid in one instalment.

(3) Not more than one instalment shall be paid in respect of each quarter of the academic year and where there are more quarters during which instalments could be paid than the number of instalments payable, no instalments shall be paid in respect of the quarter during which, in the opinion of the Department, the longest of any vacations is taken.

(4) The first instalment of a loan shall be paid under this regulation to an eligible student not later than 30 days after the Department has received a satisfactory loan application form relating to that student under regulation 6(1) or (6) and any subsequent instalment shall be paid during the quarter in respect of which it is paid.

(5) Payments shall be made by electronic transfer to the student's account or, if the student does not have such an account, by such other means as the Department considers appropriate.

(6) Subject to regulation 9 an instalment of a loan shall not be paid after a student has withdrawn from, abandoned or been expelled from, the designated course in relation to which the loan was made.

(7) An instalment of a loan shall not be paid when a student is absent from the course in relation to which the loan was made, unless in the opinion of the Department in all the circumstances it would cause exceptional hardship to suspend the payment of instalments.

(8) A student shall not be considered to be absent from his course if he is unable to attend due to illness and his absence has not exceeded 60 days.

(9) If the payment of instalments of a loan to a student has been suspended under paragraph (6) or (7) and before the end of the academic year the student commences attending his course again the Department may pay the further instalments of the loan but may reduce the amount of the loan and the amount of any further instalments of it in such proportions as it considers appropriate in the circumstances.

Transfers

9.—(1) If, during any academic year, a borrower withdraws from a designated course provided by an institution with the agreement of that institution without completing the course and if, disregarding any intervening vacation, he immediately commences attending another designated course provided by the same institution his loan shall be treated for any purpose of the Order or of these Regulations as if it were a loan in relation to the academic year of that second course or any subsequent course which he commences in the same circumstances.

(2) A borrower who has commenced attending another designated course as described in paragraph (1) shall notify the Department of any change in the particulars set out in his certificate of eligibility in accordance with regulation 5 and in particular shall provide particulars of the matters referred to in regulation 5(5)(l) to (o).

(3) If, during any academic year, a borrower withdraws from a designated course provided by an institution with the agreement of that institution without completing the course and if, disregarding any intervening vacation, he immediately commences attending another designated course provided by a different institution then, subject to paragraphs (4) and (5), he shall be treated for any purpose of the Order or of these Regulations as having withdrawn from the course in relation to which his loan was made and no further payment of instalments of that loan shall be made to him.

(4) A borrower who commenced attending another designated course in the circumstances described in paragraph (3) may notwithstanding regulation 3(1)(e) be eligible for a new loan in relation to the academic year of that second course.

(5) An application for a new loan for any academic year in reliance on paragraph (4) shall be made in accordance with regulation 6 but, where such a loan is made, regulation 7 shall have effect in relation to that loan as if the amount of any instalments already paid to the borrower in relation to that academic year were deducted from the relevant maximum amount set out therein.

Hardship Loan

10.—(1) A borrower who has applied for the maximum amount of loan in relation to an academic year may apply once only for an additional loan on the grounds of hardship, which shall be known as a “hardship loan”.

(2) A hardship loan shall be not less than £100 and not more than £250 and shall be a multiple of £25.

(3) A borrower shall demonstrate hardship by completing a questionnaire and providing such evidence of his requirements and resources as the Department may require.

(4) On being satisfied that, due to exceptional financial hardship, a borrower may not be able to continue to attend the designated course in relation to which a loan has been made for the remaining part of the academic year in question, the Department shall determine the amount of hardship loan which it considers that the borrower requires and shall advise the borrower of that amount and issue to him an application form.

(5) The borrower shall apply to the Department for a hardship loan not greater than the amount notified to him under paragraph (4) by completing the form issued to him under that paragraph and regulation 6(2)(a) to (d) and (3) shall apply to it as it applies to a loan application form.

(6) The Department shall certify on the form that to the best of its knowledge and belief—

- (a) the particulars in the form are correct;
- (b) the borrower continues to attend the course in relation to which a loan was made to him; and
- (c) due to exceptional financial hardship the borrower might not be able to continue to attend that course for the remaining part of the academic year and that he ought to be lent the amount applied for.

(7) The borrower shall submit the completed and certified application form to the Department not more than 30 days after the date of the certificate referred to in paragraph (6) and not later than one month before the end of the academic year, and the Department shall pay the amount to be lent within 14 days of receipt of a satisfactory application.

Interest

11.—(1) Subject to paragraph (2) loans shall bear interest at the rate which results in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980(16) of 3·5 per cent.

(2) If the rate referred to in paragraph (1) exceeds the rate for the time being specified for the purposes of any exemption conferred by virtue of section 16(5)(b) of the Consumer Credit Act 1974(17) loans shall bear interest at that rate.

(3) Interest shall be calculated on the principal outstanding daily, and shall be added to the principal monthly.

(4) The index of prices which the Department is required by Article 3(8) of the Order to have regard to in prescribing the rate of interest which loans shall bear shall be the retail prices all items index published by the Office for National Statistics.

Repayments

12.—(1) A borrower may pay any part of or all of any moneys he owes to the Department under the Order and Regulations at any time without charge or penalty.

(16) S.I. 1980/51, amended by S.I. 1985/1192, 1989/596

(17) 1974 c. 39

- (2) A borrower shall not be required to pay any moneys he owes before 6th April 2000.
- (3) Any liability of a borrower under the Order and Regulations shall be cancelled if he—
- (a) dies;
 - (b) is not in breach of any obligation to repay any relevant loan and he has attained the age of 65; or
 - (c) receives a disability related benefit and the Department is satisfied that because of his disability he is permanently unfit for work.
- (4) For the purposes of paragraph (3) “relevant loan” has the meaning given to it in regulation 3(3).

Insolvency

13. 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(18) any sum payable to a 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.

Information

- 14.—**(1) Every applicant for a loan and every borrower shall inform the Department if—
- (a) he withdraws from, abandons or is expelled from, the course in relation to which the loan is to be or has been made;
 - (b) he ceases to attend that course and does not intend to or is not permitted to return for the remainder of the academic year in question;
 - (c) he transfers to another course, at the same or a different institution, whether or not the new course is a designated course; or
 - (d) he is absent from his course for more than 60 days for any reason, including illness.
- (2) Every applicant for a loan and every borrower shall as soon as reasonably practicable provide the Department with details of any change of home or term time address or telephone number and of any new bank or building society account into which any amount lent to him may be paid by electronic transfer.

Sealed with the Official Seal of the Department of Education on

L.S.

20th August 1998.

Andrew McCormick
Assistant Secretary

(18) 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

SCHEDULE 1

Regulation 3(1)(a)

Eligible Students

1. A person who on the first day of the course—
 - (a) is settled in the United Kingdom within the meaning of the Immigration Act 1971(19), and
 - (b) meets the residence conditions referred to in paragraph 7.
2. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so resident since he was recognised as a refugee, or who is the spouse, child or stepchild of such a refugee and who in each case meets the residence condition in paragraph 7(a).
3. A person who—
 - (a) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom,
 - (b) has been granted leave to enter or to remain accordingly, and
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remain,
 or who is the spouse, child or stepchild of such a person, where the person, or as the case may be the spouse, child or stepchild, meets the residence conditions referred to in paragraph 7.
4. A person who is an EEA migrant worker who—
 - (a) is entitled to a loan by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement, or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of the said Article 7(2) and (3); and
 - (b) meets the residence conditions referred to in paragraph 7.
5. A person who is the spouse of an EEA migrant worker who—
 - (a) is installed in the United Kingdom with his spouse; and
 - (b) meets the residence conditions referred to in paragraph 7.
- 6.—(1) A person who is the child of an EEA migrant worker who—
 - (a) is entitled to a loan by virtue of Article 12 of the above mentioned Council Regulation, or, where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of the said Article 12; and
 - (b) meets the residence conditions referred to in paragraph 7.
 (2) For the purposes of this paragraph “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.
7. The residence conditions referred to above are that—

(19) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4, by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, and by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12

- (a) the person is ordinarily resident in Northern Ireland on the first day of the course to which the loan relates;
- (b) the person has been ordinarily resident throughout the three year period preceding the first day of the course, in the case of a person mentioned in paragraphs 1 or 3, in the United Kingdom and Islands, or, in the case of a person mentioned in paragraphs 4, 5 or 6, in the European Economic Area; and
- (c) his residence in the United Kingdom and Islands, or in the European Economic Area, as the case may be, has not during any part of the period referred to in sub-paragraph (b) been wholly or mainly for the purpose of receiving full-time education.

SCHEDULE 2

Regulation 4(1)(a)

Designated Courses

1. A first degree course.
2. A course for the Diploma of Higher Education.
3. A course for the Higher National Diploma or Higher National Certificate of—
 - (a) the Business & Technician Education Council; or
 - (b) the Scottish Qualifications Authority.
4. A course of initial training for teachers.
5. A course for the further training of teachers or youth and community workers.
6. A course in preparation for a professional examination of a standard higher than that of—
 - (a) examinations at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or
 - (b) the examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3not being a course for entry to which a first degree (or equivalent qualification) is normally required.
7. A course providing education (whether or not in preparation for an examination) the standard of which is—
 - (a) higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 6(a) or (b) above; but
 - (b) not higher than that of a first degree course,and for entry to which a first degree (or equivalent qualification) is not normally required.

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EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which come into operation on 1st September 1998, are the first Regulations made under the Education (Student Support) (Northern Ireland) Order 1998 (“the Order”). They provide for loans for maintenance for eligible students attending designated courses of higher education beginning on or after 1st September 1998. Means tested grants for maintenance and fees for such courses will be made by the education and library boards under the Students Awards Regulations (Northern Ireland) 1998 until 1st September 1999, when a replacement for these Regulations will provide for such grants for fees as well as loans for maintenance.

Persons are eligible students for the purposes of the Order and Regulations if on the first day of the course they are settled in the United Kingdom for the purposes of the Immigration Act 1971, on that day they are ordinarily resident in Northern Ireland, and for the three years immediately preceding that day they have been ordinarily resident in the United Kingdom and Islands for purposes other than receiving full-time education (regulation 3(1) and Schedule 1 paragraphs 1 and 7). Students may also be eligible if they are refugees, if they have been given exceptional leave to remain in the United Kingdom, or if they are European Economic Area migrant workers, or the spouses or children of such workers (Schedule 1 paragraphs 2 to 6). Such students must also be ordinarily resident in Northern Ireland on the first day of the course, and in some cases meet other residence conditions (Schedule 1 paragraph 7).

To be eligible students must also attend a designated course, be under the age of 50 on the first day of the course, not be eligible for a loan under the Education (Student Loans) (Northern Ireland) Order 1990 (which provides for the existing mortgage style student loans for students who began their course before 1st September 1998, and certain other students), not have received any student loan in relation to an academic year of another course which ended after the first day of the academic year of their present course, not be eligible for certain National Health Service busarries or awards, not be in breach of any obligation to repay any other student loan, and have ratified any other student loan they received when they were under the age of 18 (regulation 3(1)).

Courses which are designated courses for the purposes of the Order and Regulations include full-time courses for a first degree, for the Diploma of Higher Education, for the Higher National Diploma or certain Higher National Certificates, for the further training of teachers or youth and community workers, for certain professional examinations, and full-time courses of initial training for teachers (regulation 4(1) and Schedule 2). Such courses must be of at least on academic year’s duration, and be provided at least in part by an institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds (regulation 4(1)). The Department of Education for Northern Ireland (“the Department”) may designate other courses by administrative act from time to time (regulation 4(4)).

Students are required to demonstrate their eligibility by completing a questionnaire and supplying supporting evidence to the Department (regulation 5(1) to (3)). If the Department is satisfied that the student is eligible it shall issue an eligibility form to the student, who shall complete and sign it (regulation 5(4) to (6)). The Department then signs a certificate of eligibility on this form, and issues a numbered application form to the student (regulation 5(7) and (8)). In practice for the first year of the operation of these Regulations these functions will be transferred under Article 4(1) of the Order to higher education institutions, who presently perform similar functions in relation to loans under the Education (Student Loans) (Northern Ireland) Order 1990.

Students whose eligibility has been certified may apply for a loan for maintenance not later than a month before the end of the academic year in question, and must agree to repay any moneys lent to them with interest and applicable charges and penalties (regulation 6(1) to (3)). They may apply to borrow such amount not exceeding the maxima referred to in regulation 7 as they wish (regulation 6(2)(g)), and if they have not applied for the maximum amount the first time may apply once more for a further amount, but not so that the maxima are exceeded (regulation 6(6)). If the Department is satisfied that the student is entitled to a loan it must pay it to the student in accordance with regulation 8 (regulation 6(5) and (8)).

The amounts to be lent shall be paid in three, two or one instalment, depending on whether the first instalment is paid during the first, second, third or fourth quarter of the academic year respectively (regulation 8(1) and (2)). For the purposes of the Regulations the academic year is divided into quarters regardless of whether the year is comprised of terms or semesters, the quarters beginning on 1st September, 1st January, 1st April and 1st July (regulation 2(1)). Payment of the first instalment must be made within 30 days of the receipt of a satisfactory application and of subsequent instalments during the relevant quarters (regulation 8(4)). In the case of a traditional academic year beginning in the autumn, the first instalment will be paid within 30 days of receiving an application in the autumn. In practice the function of making payment under regulation 8 will be delegated to the Student Loans Company Limited in Glasgow under Article 4(3) of the Order.

Payments of instalments will not be made once a student has withdrawn from, abandoned or been expelled from his course (regulation 8(6)). In the case of absence from the course for more than 60 days as a result of illness, or for any period for any other reason, the Department may decide to suspend payments or to continue to make them if suspension of them would cause exceptional hardship (regulation 8(7) and (8)). When payments are suspended and the student returns to his course the Department may pay further instalments, but may reduce the amount of the loan and the amount of any further instalments in such proportions as it considers appropriate in the circumstances (regulation 8(9)). The Department's discretion to suspend payments and to decide the amount payable for a year in which the student has been absent from his course will in practice be transferred to higher education institutions.

Provision is made in regulation 9 for a student who transfers from one course to another during the course of the academic year to continue to receive instalments of his loan (regulation 9). In the case of a student who transfers to another designated course at the same institution he is only required to provide details of the transfer (regulation 9(2)), but in the case of a student who transfers to another designated course at a different institution he must apply again, and if eligible will be entitled to the balance of any instalments payable (regulation 9(3) to (5)).

A student who has applied to borrow the maximum amount in relation to an academic year may apply for a hardship loan of not less than £100 and not more than £250 (regulation 10(1) and (2)). He may apply for this loan whether or not he has received all the instalments payable in respect of the academic year at any time until one month before the end of that year. He must firstly satisfy the Department that due to exceptional financial hardship he may not be able to continue to attend for the balance of the academic year (regulation 10(3) to (5)). In practice the function of determining whether a student should receive a hardship loan and the amount of the loan will be transferred to higher education institutions under Article 4(1) of the Order. If it is certified that the student ought to receive a hardship loan the student may submit the application, and the amount to be lent will be paid within fourteen days of receipt of a satisfactory application (regulation 10(7)). The function of paying the loan will in practice be delegated to the Student Loans Company Limited under Article 4(3) of the Order.

Provision is made for the interest which the loans will bear, which is calculated daily and compounded monthly (regulation 11). In accordance with Article 3(4) of the Order the prescribed rate is no higher than that which the Department is satisfied is required to maintain the value in real terms of the outstanding amount of loans, and does not exceed the rate specified for the purposes

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of exemption of certain consumer credit agreements by the Consumer Credit (Exempt Agreements) Order 1998.

Borrowers may repay their loans at any time without penalty (regulation 12(1)), but shall not be required to repay any moneys they owe before 6th April 2000 (regulation 12(2)). Before then it is intended that regulations providing for the repayment of loans through the tax system will be made, and provision for repayment by persons not subject to that system will also be made. The liability of a borrower will be cancelled if he dies, if he is not in breach of any obligation to repay any student loan and he reaches the age of 65, or if he receives a disability related benefit and the Department is satisfied that because of his disability he is permanently unfit for work (regulation 12(3)).

Instalments of student loans paid or payable after the commencement of a student's bankruptcy shall not form part of his estate, and accordingly cannot be claimed by his trustee (regulation 13).

Applicants and borrowers are required to inform the Department when they withdraw, abandon or are expelled from their courses, when they cease to attend them for the balance of the academic year for any reason, when they transfer to another course at the same or another institution, or are absent from their course for any reason for more than 60 days (regulation 14(1)). They are also required to provide the Department with up-to-date information about their residence and bank account (regulation 14(2)).