

2004 No. 517

EDUCATION

**The Education (Student Support) (Amendment) (No. 2)
Regulations (Northern Ireland) 2004**

Made - - - - - *20th December 2004*

Coming into operation *15th January 2005*

The Department for Employment and Learning(a), in exercise of the powers conferred by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(b) and now vested in it(c) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education (Student Support) (Amendment) (No. 2) Regulations 2004 and shall come into operation on 15th January 2005.

2. In these Regulations, “the 2003 Regulations” means the Education (Student Support) Regulations (Northern Ireland) 2003(d).

3. In these Regulations, “the 2004 Regulations” means the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2004(e).

Amendment of the 2003 Regulations

4. The 2003 Regulations are amended as provided by regulations 5 to 9.

5. For regulation (4)(2)(c)(i) there shall be substituted –

“(i) “a bursary or award of similar description under Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(f), (other than a bursary paid in respect of attendance on a degree in social work course at an educational institution in Northern Ireland, which the student commenced on or after 1st September 2004,) or section 63 of the Health Services and Public Health Act 1968(g) the amount of which is not calculated by reference to his income;”.

(a) Formerly known as the Department of Higher and Further Education, Training and Employment, *see* S.I. 1999/283 (N.I. 1) and the Department for Employment 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. 2003 No. 298, as amended by S.R. 2003 No. 339
(e) S.R. 2004 No. 254
(f) S.I. 1972/1265 (N.I. 14)
(g) 1968 c. 46; section 63 was amended by the National Health Services Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Services (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26(2) and Schedule 17, the Health Services Act 1980 (c. 53), sections 1 and 2 and Schedule 1, Part 1, paragraph 19(3), the Local Government Act 1985 (c. 51), Schedule 17, the Family Practitioner Committees (Consequential Modifications) Order 1985 (S.I. 1985/39), Article 6(1), the Health and Medicines Act 1988 (c. 49), section 20, section 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 74(1) and (2), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 95(1) and (2), the Local Government Reorganisation (Wales) (Consequential Amendments) (No. 2) Order 1996 (S.I. 1996/1008), the Schedule, paragraph 1, and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 1(4)

6. In regulation 28 (as substituted by Schedule 1 to the 2004 Regulations) for paragraph (3) there shall be substituted –

“(3) A person shall not be eligible for assistance under regulation 30(1)(a) in connection with his undertaking a designated part-time course unless the course is undertaken in Northern Ireland.”.

7. In regulation 29(1)(b) (as substituted by Schedule 1 to the 2004 Regulations) for the words “it exceeds” there shall be substituted “it equals or exceeds”.

8. For regulation 40 there shall be substituted –

“40.—(1) In Northern Ireland –

(a) a bankrupt’s estate shall not include nor shall there be claimed therefor under Article 280 or 283 of the Insolvency (Northern Ireland) Order 1989^(a) 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 15th January 2005, after the commencement of the bankruptcy; or

(ii) in the case of a bankruptcy commencing on or after 15th January 2005, before or after the commencement of the bankruptcy.

(2) In England and Wales –

(a) there shall not be treated as part of a bankrupt’s estate or claimed for his estate under section 307 or 310 of the Insolvency Act 1986^(b) 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 15th January 2005, after the commencement of the bankruptcy; or

(ii) in the case of a bankruptcy commencing on or after 15th January 2005, before or after the commencement of the bankruptcy.”.

9. In Schedule 3 (as inserted by Schedule 2 to the 2004 Regulations) –

(a) For sub-paragraph (g) of paragraph 1 there shall be substituted –

“(g) “new eligible student” means an eligible student starting a designated course on or after 1st September 2004 other than –

(i) a designated course which an end-on course in relation to a designated course which the student started before 1st September 2004; or

(ii) a designated course to which the student’s eligibility has been transferred as a result of one or more transfers under regulation 7 from a designated course which started before 1st September 2004;”;

(b) for paragraph 4(6) there shall be substituted –

“(6) Where the eligible student’s parent satisfies the Department that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then any reference in this Schedule to a preceding financial year shall mean the earliest

(a) 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

(b) 1986 c. 45: section 307 was amended by the Enterprise Act 2002 (c. 40), section 261. Section 310 was amended by the Pensions Act 1995 (c. 26), section 122 and Schedule 3, paragraph 15, the Welfare Reform and Pensions Act 1999 (c. 30), section 18 and Schedule 2, paragraph 2 and the Enterprise Act 2002, sections 259 and 278 and Schedule 26

period of twelve months which ends after the start of the preceding financial year and in respect of which accounts are kept relating to that business or profession.”;

- (c) in paragraphs 4(10) and 4(11) after the word “Where” there shall be inserted the words “the Department determines that”;
- (d) for paragraphs 5(2) and 5(3) there shall be substituted –

“(2) Where the Department determines that the eligible student and his partner do not ordinarily live together throughout the relevant year, the partner’s income shall not be taken into account in determining the household income.

(3) Where the Department determines that the eligible student and his partner do not ordinarily live together for part only of the relevant year, the partner’s income shall be determined by reference to his income under sub-paragraph (1) divided by fifty-two and multiplied by the number of complete weeks in the relevant year for which the Department determines that the eligible student and his partner ordinarily live together.”.

Sealed with the Official Seal of the Department for Employment and Learning on 20th December 2004.

(L.S.)

David McAuley

A senior officer of the Department for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Education (Student Support) Regulations (Northern Ireland) 2003 (“the 2003 Regulations”) (as amended by the Education (Student Support) (Amendment) Regulations (Northern Ireland) 2004 (“the 2004 Regulations”).

Regulation 5 amends a defect in regulation (4)(2)(c)(i) to facilitate the intention that students who are in receipt of bursaries from the Department of Health, Social Services and Public Safety for attendance on the new degree in social work course in Northern Ireland, are eligible for support.

Regulation 6 amends regulation 28 of the 2003 Regulations as inserted by Schedule 1 to the 2004 Regulations so that it is a condition of eligibility for a grant for fees in respect of a part-time course that a student undertakes the course in Northern Ireland.

Regulation 7 amends regulation 29(1)(b) of the 2003 Regulations as inserted by Schedule 1 to the 2004 Regulations to correct a drafting error in the current regulations to ensure that part-time courses of one academic year’s duration are designated for support.

Regulation 8 substitutes regulation 40 of the 2003 Regulations to provide that in the event of bankruptcies arising on or after 15th January 2005, any debt arising from student loan is protected from the effects of proceedings under the Insolvency Act 1986, 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 was protected from the effects of such proceedings.

Regulation 9(a) amends paragraph 1(g) of Schedule 3 of the 2003 Regulations as inserted by Schedule 2 to the 2004 Regulations so that a student who begins a course on or after 1st September 2004 is treated as having begun that course before 1st September 2004 if he has transferred to that course from a course which began before that date. As a consequence, the requirement in the 2003 Regulations as inserted by Schedule 1 to the 2004 Regulations to take into account the income of the partner of the student’s natural parent in assessing the amount of support payable to a student beginning a course on or after 1st September 2004 does not apply to such a student.

Regulation 9(b) amends paragraph 4(6) of Schedule 3 to the 2003 Regulations as inserted by Schedule 2 to the 2004 Regulations to change the accounting year in respect of which means tested support is calculated where a student’s parent is self employed. This will now be the parent’s accounting year which ends in the financial year preceding the relevant academic year in respect of which an application for grant has been made.

Regulation 9(c) and (d) amend paragraphs of Schedule 3 to the 2003 Regulations as inserted by Schedule 2 to the 2004 Regulations to ensure that, for the purposes of assessing the amount of support payable to a student, the same method is used for calculating the income of the student’s natural parent, any partner of the student and any partner of the student’s natural parent.

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