

2006 No. 384

EDUCATION

**The Student Fees (Qualifying Courses and Persons) Regulations
(Northern Ireland) 2006**

Made - - - - - *19th September 2006*

Coming into operation - - - - - *20th September 2006*

The Department for Employment and Learning, in exercise of the powers conferred by Articles 4(8) and 14(4) of the Higher Education (Northern Ireland) Order 2005(a) makes the following Regulations.

Citation, commencement and interpretation

1. These Regulations may be cited as the Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2006 and shall come into operation on 20th September 2006.

2. In these Regulations—

“the Order” means the Higher Education (Northern Ireland) Order 2005;

“course for the initial training of teachers” includes such a course leading to a first degree;

“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 area comprised by the European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Lichtenstein;

“previous regulations” has the meaning given in regulation 2 (1) of the Student Support Regulations;

“publicly-funded” has the meaning given in regulation 2 (1) of the Student Support Regulations;

“Schedule 1” means Schedule 1 to the Student Support Regulations;

“single course” means a course mentioned in regulation 5(5) of the Student Support Regulations; and;

“the Student Support Regulations” means the Education (Student Support) Regulations (Northern Ireland) 2006(b).

Prescribed description of a qualifying course

3.—(1) The description of a qualifying course which is prescribed for the purposes of Article 4(8) of the Order is a course which, subject to paragraph (3), is a designated course within the

(a) S.I. 2005/1116 (N.I. 5) *see* Article (2) for definitions of “the Department”, “prescribed” and “regulations”

(b) S.R. 2006 No. 312

meaning of regulation 2(1) of the Student Support Regulations on the first day of an academic year which begins during the grant period and is provided by an institution in Northern Ireland.

(2) For the purposes of paragraph (1) the reference to an institution in Northern Ireland means an institution whose activities are carried on in Northern Ireland.

(3) A course is not a qualifying course if at the time the qualifying person received an offer of a place on that course the institution providing it was not publicly funded.

Prescribed description of a qualifying person

4.—(1) The description of a qualifying person which is prescribed for the purposes of Article 4(8) of the Order is a person who on the first day of an academic year which begins during the grant period falls within the class of persons who subject to paragraph (7) are specified in Part 2 of Schedule 1 other than—

- (a) persons who are not eligible for support under the Student Support Regulations by reason of regulation 4(3)(c), (d), (e) (f) or (g) of those Regulations; or
- (b) a person mentioned in Paragraph (2) or (5).

(2) Subject to the exception in paragraphs (3) and (4), a person is not a qualifying person if he has an honours degree from an institution in the United Kingdom or the Republic of Ireland for which he received financial support under previous regulations for some or all of the academic years during which the person took the course leading to the award of the honours degree.

(3) Paragraph (2) does not apply where—

- (a) the qualifying course is a course for the initial training of teachers;
- (b) the duration of the course does not exceed two years (the duration of a part time course being expressed as its full-time equivalent); and
- (c) the qualifying person is not a qualified teacher.

(4) Paragraph (2) does not apply in respect of any part of a single course where—

- (a) the qualifying course is a single course;
- (b) the single course leads to an honours degree being conferred on the qualifying person from an institution in the United Kingdom before the final degree or equivalent qualification; and
- (c) the qualifying person only has an honours degree which was received as part of the single course referred to in sub-paragraph (a).

(5) Where one of the events mentioned in paragraph (6) occurs in the course of an academic year and as a result a person falls within the class of persons mentioned in Part 2 of Schedule 1 he is not a qualifying person in respect of the academic year in which the relevant event occurred or any previous academic year.

(6) The events are —

- (a) an area which was not part of the European Community or the European Economic Area has become part of one or both of these areas;
- (b) the person acquires the right of permanent residence as defined in Part 1 of Schedule 1; or
- (c) the person becomes the child of a Swiss national.

(7) For the purposes of this regulation—

- (a) where a person is mentioned in paragraph 5(a) of Schedule 1 he is not required to meet the residence requirement in paragraph 5(c) of that Schedule;
- (b) in paragraph 9(1) of Schedule 1 the requirement that an EC national or a family member of such a national has that status on the first day of the first academic year of the course does not apply to sub-paragraph (1)(a); and
- (c) paragraph 9(1)(b)(ii) of Schedule 1 does not apply.

Transitional Cases

5.—(1) Where a qualifying person, disregarding any intervening vacation, begins an end-on course within the meaning of regulation 2(1) of the Student Support Regulations immediately after a qualifying course (“the relevant course”) in a case where paragraph (3) or (4) applies, the end-on course shall be treated as if the offer for it had been received on the same date as the offer for the relevant course.

(2) In a case where paragraph (3) or (4) applies, where a qualifying person undertakes a qualifying course (“the relevant course”) which is a single course, an offer received for any part of the relevant course shall be treated as if it had been received on the same date as the offer for the first part of the relevant course.

(3) This paragraph applies where —

- (a) the qualifying person had on or before 1st August 2005 received an offer, whether conditional on obtaining specified qualifications or not, of a place on the relevant course, or a similar course; and;
- (b) the first academic year of the relevant course begins before 1st September 2007.

(4) This paragraph applies where —

- (a) the qualifying person had received an offer of a place on a qualifying course (whether or not at the same institution as the relevant course) the first academic year of which begins before 1st September 2006;
- (b) he was unable to take up the offer because a specified qualification or grade was not awarded to him;
- (c) he appealed against the decision not to award him the qualification or grade;
- (d) the appeal was allowed after the last date on which he could have taken up the offer;
- (e) as a result he was offered a place on the relevant course; and;
- (f) the first academic year of the relevant course begins after 31st August 2006 but before 1st September 2007.

(5) For the purpose of paragraph (3)(a) a course (“the original course”) is similar to the relevant course if—

- (a) it appears to the governing body of the institution providing the relevant course that the subject matter of the course is in whole or in part the same as the subject matter of the original course; and;
- (b) except where the original course is no longer being provided, the relevant course is provided by the institution which was to have provided the original course.

Sealed with the Official Seal of the Department for Employment and Learning on 19th September 2006



Catherine Bell
A senior officer of the Department for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Regulations)

Article 4 of the Higher Education (Northern Ireland) Order 2005 (“the 2005 Order”) requires the Department to impose a condition on grants given to the governing bodies of higher and further education institutions. This condition requires the governing bodies to secure that the qualifying fees payable in respect of any qualifying course by a qualifying person do not exceed the basic or higher fee amounts applicable to that course. The fee amounts are prescribed by the Student Fees (Amounts) Regulations (Northern Ireland) 2005 S.R. 2005 No. 290.

These Regulations prescribe the qualifying courses and class of qualifying persons by reference to the Education (Student Support) Regulations (Northern Ireland) 2006 (“the Student Support Regulations”). The qualifying courses prescribed by regulation 3 are those courses which are “designated courses” as defined in the Student Support Regulations and provided at institutions in Northern Ireland. The class of qualifying persons prescribed by regulation 4 are those persons who on the first day of the relevant academic year are specified in Part 2 of Schedule 1 to the Student Support Regulations (that is, persons who are eligible for support) other than persons who are not eligible for student support by reason of certain paragraphs of regulation 4 of those Regulations or who already have an honours degree from a United Kingdom institution or from an institution in the Republic of Ireland for which they received support under previous regulations. There is an exception in respect of a previous honours degree for a person who is undertaking a course of initial teacher training or who has obtained the honours degree only as part of a single course they are currently undertaking. Regulation 4 also makes provision in respect of events which may occur during the course of an academic year and bring a person within Part 2 of Schedule 1 to the Student Support Regulations. Regulation 4(7) disapplies specified parts of Part 2 of that Schedule 1 for the purposes of that Regulation.

Article 5 of the 2005 Order requires that in transitional cases students may not be charged more than the basic amount. Regulation 5 provides that end-on courses and single courses, as defined in the Student Support Regulations, are included in the transitional cases.

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