

EXPLANATORY MEMORANDUM

STUDENT FEES (QUALIFYING COURSES AND PERSONS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2011

2011 No. 70

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Employment and Learning to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 4 and 14 of the Higher Education (Northern Ireland) Order 2005 (“the Order”) and is subject to the negative resolution procedure.
- 1.3 The Rule is due to come into operation on 28th March 2011.

2. Purpose

- 2.1 These Regulations amend the Schedule of the Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007 (S.R. 2007, No. 328) (“the principal Regulations”) to replace references to ‘a child’ with one that refers to direct descendants of the worker, the worker’s spouse or civil partner who are under the age of 21 or dependant on the worker or worker’s spouse or civil partner. This change aligns the definition of a family member for EEA workers with the definition of a family member in Article 2 of the EU Directive.

3. Background

- 3.1 The principal Regulations define what a “qualifying person” and a “qualifying course” is for the purpose of Article 4 of the Order. A qualifying person on a qualifying course will have their fees regulated through the condition of grants imposed on Higher Education Institutions (HEIs) by the Department when it is made for each academic year. In general, these Regulations define “qualifying persons” as eligible students and “qualifying courses” as designated courses under the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009. In practice, this means that most undergraduate home and EU students will have their fees regulated.
- 3.2 The principal Regulations follow policy principles set out in the Student Support Regulations and this short amendment simply redefines this legislation to include an amendment to replace references to ‘a child’ which has already been approved to the Student Support Regulations.

4. Consultation

- 4.1 The primary legislation, the Higher Education (Northern Ireland) Order 2005 was subject to a full public consultation.

5. Equality Impact

- 5.1 Consideration has been given to compliance with Section 75 of the Northern Ireland Act 1998. The policy changes have been screened out and therefore not subject to a full Equality Impact Assessment. A preliminary Equality Impact Assessment (EIA) was not considered necessary as a full EIA was carried out as part of the consultation process relating to preparation of the primary legislation, the Higher Education (NI) Order in 2005. It is judged that these changes do not impact adversely on any group of students.

6. Regulatory Impact

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

7. Financial Implications

- 7.1 There is no cost implications associated with any of the amendments to the principal Regulations.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department sought legal advice regarding compliance with Section 24. The Departmental Solicitors Office advised of nothing contrary to the Department's earlier consideration that this policy change adequately addresses the issues of protecting human rights.

9. EU Implications

- 9.1 None.

10. Parity or Replicatory Measure

- 10.1 The amendments are incorporated into the equivalent Statutory Instrument, The Education (Student Fees, Awards and Support) (Amendment) Regulations 2011, No. 87 which came into force on 11th February 2011.

11. Additional Information

- 11.1 Contact John Neill at the Department for Employment and Learning, Tel:028 90 257712 or email: john.neill@delni.gov.uk .

