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STATUTORY INSTRUMENTS

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**1998 No. 1760 (N.I. 14)**

**NORTHERN IRELAND**

**The Education (Student Support) (Northern Ireland) Order 1998**

*Made* - - - - - *21st July 1998*  
*Laid before Parliament* *22nd July 1998*  
*Coming into operation in accordance with Article 1(2)*  
*and (3)*

At the Court at Buckingham Palace, the 21st day of July 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of sections 22 to 26 and 28 of the Teaching and Higher Education Act 1998:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 45 of the said Act of 1998) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Education (Student Support) (Northern Ireland) Order 1998.

(2) Subject to paragraph (3), this Order comes into operation on the expiration of 7 days from the day on which it is made.

(3) The following provisions come into operation on such day or days as the Department may by order appoint, namely—

- (a) Article 9;
- (b) the Schedule.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986;

“the Further Education Order” means the Further Education (Northern Ireland) Order 1997;

“fees”, in relation to attendance on a course, means fees in respect of, or otherwise in connection with, attendance on the course, including admission, registration, tuition and graduation fees but excluding—

- (a) fees payable to an institution for awarding or accrediting any qualification where the institution does not provide the whole or part of the course and is not a publicly-funded institution;
- (b) fees payable for board or lodging;
- (c) fees payable for field trips (including any tuition element of such fees);
- (d) fees payable for attending any graduation or other ceremony; and
- (e) such other fees as may be prescribed;

“further education course” and “higher education course” have the meaning given by regulations under Article 3;

“modifications” includes additions, alterations and omissions;

“publicly-funded institution” means—

- (a) the Queen’s University of Belfast, the University of Ulster, a college of education or any institution providing further education as defined in Article 3 of the Further Education Order;
- (b) any university or other institution receiving grants, loans or other payments under section 5 or 65 of the Further and Higher Education Act 1992, or under section 5 of the Education Act 1994, any institution maintained by a local education authority in exercise of their further and higher education functions, any institution receiving a recurrent grant towards its costs from a further education funding council or any institution receiving a recurrent grant towards its costs under regulations made under section 485 of the Education Act 1996;
- (c) any institution within the higher education sector for the purposes of the Further and Higher Education (Scotland) Act 1992, any college of further education within the meaning of section 36(1) of that Act or any central institution within the meaning of section 135(1) of the Education (Scotland) Act 1980.

(3) Regulations under Article 3 may provide for courses provided wholly or partly outside the United Kingdom to be further education courses or (as the case may be) higher education courses for the purposes of this Order.

(4) This Order shall be construed as one with the 1986 Order; and accordingly Article 2 of the 1986 Order, in so far as it relates to the interpretation of words or expressions used in that Order and in this Order, shall apply for the purposes of this Order as it applies for the purposes of that Order.

### **New arrangements for giving financial support to students**

**3.—(1)** Regulations shall make provision authorising or requiring the Department to make grants or loans, for any prescribed purposes, to eligible students in connection with their attending—

- (a) higher education courses; or
- (b) further education courses,

which are designated for the purposes of this Article by or under the regulations.

(2) Regulations under this Article may, in particular, make provision—

- (a) for determining whether a person is an eligible student in relation to any grant or loan available under this Article;
  - (b) prescribing, in relation to any such grant or loan and an academic year, the maximum amount available to any person for any prescribed purpose for that year;
  - (c) where the amount of any such grant or loan may vary to any extent according to a person's circumstances, for determining, or enabling the determination of, the amount required or authorised to be paid to him;
  - (d) prescribing categories of attendance on higher education courses or further education courses which are to qualify for any purposes of the regulations;
  - (e) for any grant under this Article to be made available on such terms and conditions as may be prescribed by, or determined by the Department under, the regulations, including terms and conditions requiring repayments to be made in circumstances so prescribed or determined;
  - (f) requiring the making of payments in respect of any such grant to be suspended or terminated in any such circumstances;
  - (g) prescribing requirements or other provisions, whether as to repayment or otherwise, which are for the time being to apply in relation to loans under this Article (including requirements or other provisions taking effect during the currency of such loans so as to add to, or otherwise modify, those for the time being applying in relation to the loans);
  - (h) authorising grants in respect of fees payable in connection with attendance on courses to be paid directly to institutions charging the fees;
  - (i) requiring prescribed amounts payable to eligible students under loans under this Article to be paid directly to institutions which have previously made loans of any prescribed description to those persons;
  - (j) modifying any statutory provision (whenever passed or made) so as to provide for the treatment, in connection with any calculation with respect to the income (however defined) of persons to whom grants or loans are made under this Article, of amounts due from or payable to such persons under such grants or loans;
  - (k) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with appeals).
- (3) The provision which may be made by virtue of paragraph (2)(g) in relation to loans under this Article includes provision—
- (a) for such loans to bear compound interest at such rates, and calculated in such manner, as may be prescribed from time to time;
  - (b) for such loans to be repaid in such manner, at such times, and to such person or body as may be prescribed from time to time;
  - (c) for the payment, in respect of amounts overpaid by borrowers, of interest at such rate, and calculated in such manner, as may be determined by the Department from time to time;
  - (d) for a borrower not to be liable to make any repayment in respect of such a loan—
    - (i) during such period as may be prescribed from time to time; or
    - (ii) in such circumstances as may be so prescribed,including provision for the cancellation of any further such liability of the borrower in any such circumstances;
  - (e) with respect to sums which a borrower receives, or is entitled to receive, under such a loan after the commencement of his bankruptcy or the date of the sequestration of his estate.

- (4) In relation to loans under this Article—
- (a) the rates prescribed by regulations made in pursuance of paragraph (3)(a)—
    - (i) shall be no higher than those which the Department is satisfied are required to maintain the value in real terms of the outstanding amounts of such loans; and
    - (ii) shall at no time exceed the specified rate for low interest loans; and
  - (b) such regulations may make provision, for the purpose of calculating the interest to be borne by such loans, for repayments by borrowers to be treated as having been made or received on such date or dates as may be prescribed by the regulations.
- (5) Regulations under this Article may also make such provision as the Department considers necessary or expedient in connection with the recovery of amounts due from borrowers under loans under this Article, including provision for—
- (a) imposing on employers or (as the case may be) such other persons or bodies as may be prescribed, requirements with respect to—
    - (i) the making of deductions in respect of amounts so due (or, in any prescribed circumstances, amounts assessed in accordance with the regulations to be so due) from emoluments payable to borrowers;
    - (ii) the collection by other means of such amounts;
    - (iii) the transmission of amounts so deducted or collected to the Department in accordance with directions given by it;
  - (b) imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to the keeping and production of records for such purposes as may be prescribed;
  - (c) imposing on borrowers requirements with respect to—
    - (i) the provision of such information; and
    - (ii) the keeping and production of such documents and records, relating to their income as may be prescribed;
  - (d) requiring the payment, by persons or bodies to whom requirements imposed in pursuance of any of sub-paragraphs (a) to (c) apply, of—
    - (i) penalties in cases of non-compliance with, or otherwise framed by reference to, such requirements; and
    - (ii) interest in respect of periods when such penalties are due but unpaid;
  - (e) requiring the payment by borrowers, in respect of periods when amounts due under their loans are unpaid, of
    - (i) interest (applied to such amounts at a rate calculated otherwise than in accordance with paragraph (4)(a)); or
    - (ii) both such interest and one or more surcharges (together with further interest in respect of periods when such surcharges are due but unpaid);
  - (f) enabling the Department to require the reimbursement by borrowers of costs or expenses of any prescribed description incurred by it in connection with the recovery of unpaid amounts;
  - (g) applying or extending with or without modification, for purposes connected with the recovery of amounts under regulations made by virtue of this paragraph, any of the provisions of the Taxes Acts or of regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE);

- (h) determining the priority as between deductions falling to be made by virtue of subparagraph (a)(i) and deductions falling to be made, from emoluments payable to borrowers, by virtue of other statutory provisions (whenever passed or made).
- (6) In paragraph (5)—
  - (a) “employers” means persons who make payments of, or on account of, income assessable to income tax under Schedule E; and
  - (b) “the Taxes Acts” has the same meaning as in the Taxes Management Act 1970.
- (7) Where regulations under this Article prescribe by virtue of paragraph (2)(b) the maximum amount of any grant available for an academic year in respect of fees payable in connection with attendance on a higher education course provided by a publicly-funded institution, no regulations increasing that amount shall be made under this Article unless—
  - (a) the Department is satisfied that the increase is no greater than is required to maintain the value of such grants in real terms; or
  - (b) a draft of the regulations had been laid before, and approved by a resolution of, the Assembly.
- (8) For the purposes of paragraph (4)(a) or (7)(a) the Department shall have regard to such index of prices as may be specified in, or determined in accordance with, regulations under this Article.
- (9) In paragraph (4)(a) “the specified rate for low interest loans” means 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 (exemption of certain consumer credit agreements by reference to the rate of the total charge for credit).

#### **Transfer or delegation of functions relating to student support**

- 4.—(1) If the Department so determines, any function exercisable by it by virtue of regulations under Article 3 shall, to such extent as is specified in its determination, be exercisable instead by such body as is so specified which is either—
- (a) a board; or
  - (b) the governing body of an institution at which eligible students (within the meaning of such regulations) are attending courses.
- (2) A body by which any function is for the time being exercisable by virtue of paragraph (1) shall comply with any directions given by the Department as to the exercise of that function.
- (3) The Department may make arrangements for any person or body specified in the arrangements to exercise on its behalf, to such extent as is so specified, any function exercisable by it by virtue of regulations under Article 3 (including any such function in relation to appeals).
- (4) Any arrangements made under paragraph (3) shall not prevent the Department from exercising the function in question itself.
- (5) The Department may make provision for enabling appeals—
- (a) to be made with respect to such matters arising out of the exercise by any person or body of any function by virtue of paragraph (1) or (3) as it may determine; and
  - (b) to be so made to a person or body appointed by it for the purpose.
- (6) The Department may pay to any body or person by whom any function is exercisable by virtue of paragraph (1) or (3)—
- (a) such amounts as it considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that body or person—
    - (i) in making grants or loans under Article 3; or

- (ii) by way of administrative expenses, in, or in connection with, the exercise of that function;
  - (b) in a case where the function is exercisable by virtue of paragraph (3), such remuneration as it may determine.
- (7) Any payment under paragraph (6)(a) may be made subject to such terms and conditions as the Department may determine; and any such conditions may in particular—
- (a) require the provision of returns or other information before any such payment is made;
  - (b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.
- (8) The Department may pay to any person or body appointed by it under paragraph (5) such remuneration or administrative expenses (or both) as it may determine.
- (9) In relation to any function which, by virtue of paragraph (1) or (3), is exercisable to a specified extent, references in any other provision of this Article to the exercise of that function are accordingly to its exercise to that extent.

#### **Supply of information in connection with student loans**

- 5.—(1) This Article applies to any information which is held—
- (a) by the Commissioners of Inland Revenue; or
  - (b) by a person providing services to those Commissioners and in connection with the provision of those services.
- (2) Information to which this Article applies may be supplied to—
- (a) the Department or the Secretary of State;
  - (b) any person or body acting on behalf of the Department or the Secretary of State under the delegation of functions provisions; or
  - (c) any person or body by whom any function of the Department or the Secretary of State is for the time being exercisable to any extent by virtue of the transfer of functions provisions,
- for the purpose of enabling or assisting the recipient to exercise any function in connection with the operation of the student loans scheme.
- (3) Information supplied under paragraph (2) shall not be supplied by the recipient to any other person or body unless it is supplied—
- (a) to a person or body to whom it could be supplied under that paragraph; or
  - (b) for the purposes of any civil or criminal proceedings arising out of the student loans scheme.
- (4) Paragraphs (2) and (3) extend only to the supply of information by or under the authority of the Commissioners of Inland Revenue.
- (5) This Article does not limit the circumstances in which information may be supplied apart from this Article.
- (6) In this Article—
- (a) “the delegation of functions provisions” means—
    - (i) Article 4(3);
    - (ii) section 23(4) of the Teaching and Higher Education Act 1998; or
    - (iii) section 73A(3) of the Education (Scotland) Act 1980;
  - (b) “the transfer of functions provisions” means—

- (i) Article 4(1);
  - (ii) section 23(1) of the Teaching and Higher Education Act 1998; or
  - (iii) section 73A(1) of the Education (Scotland) Act 1980;
- (c) “the student loans scheme” means the provisions of—
- (i) regulations under Article 3 so far as having effect in relation to loans under that Article;
  - (ii) regulations under section 22 of the Teaching and Higher Education Act 1998 so far as having effect in relation to loans under that section; or
  - (iii) regulations under section 73(f) of the Education (Scotland) Act 1980 made with respect to loans.

### **Transitional arrangements**

#### **6.—(1) Regulations may make provision—**

- (a) for any function which is or may be conferred under or by virtue of a relevant statutory provision—
  - (i) to transfer to, or otherwise be exercisable by, the designated person or body; or
  - (ii) to be replaced by such function exercisable by the designated person or body as is specified in the regulations,to such extent as is so specified;
- (b) for any function exercisable by the designated person or body by virtue of subparagraph (a)(i) to be exercisable in such modified form as is so specified;
- (c) for the transfer to the designated person or body of rights or liabilities arising under or by virtue of any relevant statutory provision;
- (d) for any such statutory provision to have effect with such modifications as are so specified;
- (e) imposing on persons or bodies of any description so specified requirements with respect to the transfer and preservation of records.

(2) In this Article “the designated person or body” means the Department or such other person or body as may be designated for the purpose by regulations under this Article.

(3) In this Article “relevant statutory provision” means any statutory provision mentioned in the Schedule, so far as that provision continues in operation by virtue of any savings made, in connection with its repeal by this Order, by an order under Article 1(3).

(4) The Department shall, not later than 6 months after the making of this Order, appoint an independent body to review the arrangements for Northern Ireland relating to the payment of grants in respect of fees payable in connection with attendance on the final honours year of first degree courses at higher education institutions in Scotland.

#### **(5) The Department shall invite—**

- (a) the Scottish higher education principals;
- (b) the Committee of Vice-Chancellors and Principals; and
- (c) such other bodies as it considers appropriate,

to make representations to the body established under paragraph (4); and the report of that body shall be laid before the Assembly not later than 1st April 2000.

(6) If that body recommends that the arrangements referred to in paragraph (4) should be modified in accordance with this paragraph, the Department may modify those arrangements so as to secure that they are no less favourable than the arrangements made by regulations under section 73(f)

of the Education (Scotland) Act 1980 for the payment of allowances in respect of fees payable as mentioned in paragraph (4).

(7) In paragraphs (4) and (6) any reference to the arrangements for Northern Ireland is a reference to arrangements made either under Article 50 of the 1986 Order or under Article 3 of this Order.

### **Imposition of conditions as to fees at further and higher education institutions**

7.—(1) The power of the Department to impose conditions under paragraph (3) of Article 5 of the Further Education Order in relation to any grants, loans or other payments made by the Department under that Article to the governing body of an institution of further education includes power to impose a condition requiring the governing body to secure that, in respect of the relevant academic year, no fees are payable to the institution by any specified class of persons in respect of any specified matters in connection with their attending courses of any specified description.

(2) The power of the Department to impose conditions under—

(a) paragraph (2) of Article 66 of the 1986 Order; or

(b) paragraph (1) of Article 30 of the Education (Northern Ireland) Order 1993,

in relation to any grants made by the Department under that paragraph to the governing body of an institution includes power to impose a condition requiring the governing body to secure that, in respect of the relevant academic year, the fees payable to the institution by any prescribed class of persons in connection with their attending courses of any prescribed description are equal to the prescribed amount.

(3) In paragraph (2) “the prescribed amount”, in relation to any such class of persons attending courses of any such description, means such amount as may be prescribed for the time being by virtue of Article 3(2)(b) as the maximum amount of any grant available for the relevant academic year in respect of fees payable by such persons in connection with their attending such courses.

(4) A condition under paragraph (1) or (2) shall impose, in the event of a failure by the governing body to comply with the requirement specified in that paragraph, such further financial requirements on that body as may be specified, which may include requirements relating to the repayment, with or without interest, of the whole or part of any sums received by it in respect of the grant, loan or other payment in question.

(5) No condition under paragraph (1) or (2) shall apply in relation to any fees which are payable by students not having such connection with the United Kingdom or any part of it as may be prescribed.

(6) The Department shall not exercise the power to prescribe descriptions of courses under paragraph (2) in such a way as to discriminate—

(a) in relation to courses of initial teacher training, between different courses on the basis of the subjects in which such training is given; or

(b) in relation to other courses, between different courses at the same or a comparable level on the basis of the areas of study or research to which they relate.

(7) In this Article—

“course”, where it appears in paragraph (2) or (3), does not include any part-time or postgraduate course other than a course of initial teacher training;

“the relevant academic year”, in relation to a course, means the academic year applicable to the course which begins at the same time as, or during, the period in respect of which the grants, loans or other payments to which the relevant condition under paragraph (1) or (2) relates are made;

“specified” means specified by the Department in a condition imposed by it under paragraph (1) or (2), as the case may be.

(8) Where—



- (a) a condition is imposed under paragraph (1) or (2) in connection with any grants, loans or other payments made to the governing body of an institution; and
- (b) those payments are to any extent so made in respect of persons attending a course which is provided in whole or part by any other institution,

then, for the purposes of this Article, fees payable by such persons to the other institution shall be regarded as fees payable by them to the first-mentioned institution.

(9) Nothing in the Further Education Order so far as it imposes any prohibition or other requirement in relation to the imposition of conditions by the Department shall apply to any condition under paragraph (1) imposed by the Department.

### **Regulations**

8.—(1) Subject to paragraphs (2) and (3), regulations under this Order shall be subject to negative resolution.

(2) Paragraph (1) does not apply to the first regulations to be made under Article 3; and no such regulations shall be made (whether alone or with other regulations) unless a draft has been laid before, and approved by a resolution of, the Assembly.

(3) Paragraph (1) also does not apply to—

- (a) any regulations in relation to which sub-paragraph (b) of Article 3(7) applies; or
- (b) any other regulations under Article 3 a draft of which has been laid before, and approved by a resolution of, the Assembly.

(4) Any order or regulations under this Order may contain such incidental, supplemental, saving or transitional provisions as the Department thinks fit.

(5) Nothing in this Order shall be read as affecting the generality of paragraph (4).

### **Repeals**

9. The statutory provisions set out in the Schedule are hereby repealed to the extent specified in the third column of that Schedule.

*N.H. Nicholls*  
Clerk of the Privy Council

**Status:** This is the original version (as it was originally made).

## SCHEDULE

Article 9.

## REPEALS

Number	Short title	Extent of Repeal
1986 NI 3.	The Education and Libraries (Northern Ireland) Order 1986	Article 50(1) and (2).  In Article 50(3) the word . “other”.
1990 NI 11.	The Education (Student Loans) (Northern Ireland) Order 1990.	The whole Order.
1993 NI 12.	The Education and Libraries (Northern Ireland) Order 1993.	In Part II of Schedule 4, the amendment to the Education (Student Loans) (Northern Ireland) Order 1990.
1996 NI 1.	The Education (Northern Ireland) Order 1996.	In Part II of Schedule 5, the amendments to the Education (Student Loans) (Northern Ireland) Order 1990.
1996 NI 15.	The Education (Student Loans) (Northern Ireland) Order 1996.	The whole Order.
1998 NI 1.	The Education (Student Loans) (Northern Ireland) Order 1998.	The whole Order.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to those of sections 22 to 26 and 28 of the Teaching and Higher Education Act 1998.

The Order enables the Department of Education to provide financial support by way of grant or loan to students on higher or further education courses.