
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 340

**The Education (Student Support)
Regulations (Northern Ireland) 2005**

PART 9

SUPPORT FOR PART-TIME COURSES

Eligible part-time students

34.—(1) An eligible part-time student shall qualify for support in connection with his undertaking a designated part-time course subject to and in accordance with this Part.

(2) A person is an eligible part-time student in connection with a designated part-time course if—

- (a) the Department has determined in connection with that course that the person is mentioned in Schedule 2; and
- (b) the person is not excluded by paragraph (3).

(3) A person shall not be an eligible part-time student if—

- (a) there has been made to him or paid to him in relation to his undertaking the part-time course—
 - (i) a bursary or award of similar description under Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 or section 63 of the Health Services and Public Health Act 1968 the amount of which is not calculated by reference to his income;
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(1); or
 - (iii) a Scottish healthcare allowance whether or not the amount of such allowance is calculated by reference to his income;
- (b) he is in breach of any obligation to repay any loan;
- (c) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18;
- (d) he has, in the opinion of the Department, shown himself by his conduct to be unfitted to receive support; or
- (e) subject to paragraph (4), he is a prisoner serving a custodial sentence.

(4) Paragraph (3)(e) shall not apply in respect of an academic year during which the student enters prison to serve a custodial sentence or is released from prison having served such a sentence.

(5) For the purposes of paragraphs (3)(b) and (3)(c), “loan” means a loan made under the student loans legislation.

(6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) shall only apply if the agreement was made—

- (a) before 25th September 1991; and
- (b) with the concurrence of the borrower's curator or at a time when he had no curator

(7) An eligible part-time student shall not qualify for support under regulation 37(1)(b) or regulation 38 if the only paragraph from paragraphs 1 to 7 and 9 of Schedule 2 into which he falls is paragraph 7.

(8) An eligible part-time student shall not qualify for support—

- (a) under regulation 37(1)(a) unless he undertakes the designated part-time course in Northern Ireland; or
- (b) under regulation 37(1)(b) or 38 unless he undertakes the designated part-time course in the United Kingdom.

(9) An eligible part-time student shall not qualify for support under regulation 37 if he has undertaken one or more part-time courses for eight academic years in aggregate and he has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (10).

(10) The loans and grants referred to in paragraph (9) are—

- (a) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course in accordance with regulations made under Article 3 of the Order;
- (b) a loan, a grant in respect of fees or a grant for books, travel and other expenditure each made in respect of an academic year of a part-time course in accordance with regulations made under section 22 of the Teaching and Higher Education Act 1998; or
- (c) a loan in respect of an academic year of a part-time course made in accordance with Regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980.

(11) An eligible part-time student shall not qualify for support under regulation 37 if he holds a first degree from an educational institution in the United Kingdom or a comparable qualification from an educational institution outside the United Kingdom.

(12) For the purposes of paragraph (11), a degree shall not be treated as a first degree where—

- (a) it is a degree (other than an honours degree) that has been awarded to an eligible part-time student who has completed the required modules, examinations or other forms of assessment for his first degree course;
- (b) the course was undertaken at an educational institution in the United Kingdom or Republic of Ireland; and
- (c) the eligible part-time student is registered to continue the course at the same educational institution after the award of his degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

(13) Where a student becomes an eligible part-time student during the course of an academic year as a result of one of the events listed in paragraph (14), he may qualify for support in accordance with this Part in respect of that academic year but he shall not qualify for support under this Part in respect of any academic year beginning before the academic year in which the relevant event occurred.

(14) The events referred to in paragraph (13) are—

- (a) the student's course becomes a designated part-time course; or
- (b) the student, his spouse, his civil partner or his parent is recognised as a refugee or is granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2.

(15) Notwithstanding paragraph (2), a person shall be an eligible part-time student for the purposes of this Part if—

- (a) he qualified as an eligible part-time student in connection with an earlier academic year of the present designated part-time course in accordance with regulations made under Article 3 of the Order and that status has not expired or been terminated; or
- (b) the Department has previously determined that the person is—
 - (i) an eligible student in connection with a designated course; or
 - (ii) an eligible part-time student in connection with a designated part-time course other than the present course

and the student's status as an eligible student or as an eligible part-time student in connection with that course has been converted or transferred from that course to the present course as a result of one or more conversions or transfers in accordance with regulations made under Article 3 of the Order.

(16) An eligible part-time student shall not, at any one time, qualify for support for—

- (a) more than one designated part-time course;
- (b) a designated part-time course and a designated course;
- (c) a designated part-time course and a designated postgraduate course.

Designated part-time courses

35.—(1) Subject to paragraph (2), a part-time course is designated for the purposes of Article 3(1) of the Order and regulation 34 if—

- (a) it is mentioned in Schedule 3, otherwise than in paragraph 4 of that Schedule;
- (b) it is of at least one academic year's duration and does not exceed twice the period normally required to complete a full-time course leading to the same qualification;
- (c) it is wholly provided by an institution or institutions in the United Kingdom which are maintained or assisted by recurrent grants out of public funds or provided by such institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
- (d) it is not designated by or under regulation 5.

(2) For the purposes of paragraph (1)—

- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;
- (b) a university and any constituent college or institution in the nature of a college of a university shall be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
- (c) an institution shall not be regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65 (3A) of the Further and Higher Education Act 1992.

(3) For the purposes of Article 3 of the Order and regulation 34(1) the Department may designate courses of higher education which are not designated by paragraph (1).

Period of eligibility

36.—(1) An eligible part-time student shall retain his status as an eligible part-time student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” in paragraph (1) runs until the end of the academic year in which the eligible part-time student completes his designated part-time course.

(3) The Department may, at any time, renew or extend the period of eligibility for such further period as it determines.

(4) The period of eligibility shall terminate when the eligible part-time student—

- (a) withdraws from his designated part-time course in circumstances where the Department has not transferred or converted or will not transfer or convert his status under regulation 41 or 42; or
- (b) abandons or is expelled from his designated part-time course.

(5) The Department may terminate the period of eligibility where the eligible part-time student has shown himself by his conduct to be unfitted to receive support.

(6) If the Department is satisfied that an eligible part-time student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Department may take such of the following actions as it considers appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 45.

Assistance for part-time courses

37.—(1) For the purposes of this regulation, the assistance available is—

- (a) a grant in respect of fees not exceeding the lesser of the following amounts—
 - (i) the basic grant, and
 - (ii) the “actual fees”, being the amount of fees charged in respect of an academic year of the designated part-time course; and
- (b) a grant not exceeding £250 for books, travel and other expenditure in connection with the designated part-time course.

(2) The basic grant varies according to the intensity of study.

(3) The intensity of study is calculated as follows and expressed as a percentage—

$$\frac{FT}{PT} \times 100$$

where

FT is the number of academic years ordinarily required to complete a course which is the full-time equivalent of the designated part-time course

PT is the number of academic years ordinarily required to complete the designated part-time course.

(4) The “basic grant” is—

- (a) £590 where the intensity of study is less than 60 per cent. (“level 1”);
- (b) £710 where the intensity of study is 60 per cent. or more but less than 75 per cent. (“level 2”);

- (c) £885 where the intensity of study is 75 per cent. or more (“level 3”).
- (5) Subject to paragraphs (6) and (7), the amount of assistance payable in respect of an academic year is as follows—
- (a) the maximum amount of assistance available under paragraph (1) is payable if at the date of his application, the eligible part-time student or his partner is entitled—
 - (i) under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to income support or housing benefit; or
 - (ii) under Part 1 of the Jobseekers (Northern Ireland) Order 1995⁽²⁾ to income-based jobseekers allowance or under arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950⁽³⁾ to new deal allowance;
 - (b) where the relevant income is less than £14,970, the maximum amount of assistance available under paragraph (1) is payable;
 - (c) where the relevant income is £14,970, the maximum amount of assistance available under paragraph (1)(b) is payable together with £50 less than the maximum amount of assistance available under paragraph (1)(a);
 - (d) where the relevant income exceeds £14,970 but is less than £19,625, the maximum amount of assistance available under paragraph (1)(b) is payable and the amount of assistance payable under paragraph (1)(a) is the amount determined in accordance with paragraph (6);
 - (e) where the relevant income is £19,625, the maximum amount of assistance available under paragraph (1)(b) is payable and the amount of assistance payable under paragraph (1)(a) is £50;
 - (f) where the relevant income exceeds £19,625 but is less than £20,100, the maximum amount of assistance available under paragraph (1)(b) is payable and no assistance is payable under paragraph (1)(a);
 - (g) where the relevant income is £20,100 or more but less than £22,000, no assistance is available under paragraph (1)(a) and the amount of assistance payable under paragraph (1)(b) is the amount left after deducting from the maximum amount of assistance available under paragraph (1)(b) £1 for every complete £9.50 by which the relevant income exceeds £20,100;
 - (h) where the relevant income is £22,000, no assistance is payable under paragraph (1)(a) and the amount of assistance payable under paragraph (1)(b) is £50;
 - (i) where the relevant income exceeds £22,000, no assistance is payable under paragraph (1).
- (6) Where paragraph (5)(d) applies, the amount of assistance payable under paragraph (1)(a) shall be determined by deducting from the maximum amount of assistance available under paragraph (1)(a) one of the following amounts—
- (a) £50 plus a further £1 for each complete £9.50, £7.63 or £5.93 by which the relevant income exceeds £14,970 according to whether the intensity of study is level 1, 2 or 3, respectively; or
 - (b) where the basic grant is greater than the actual fees, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between the basic grant and the actual fees (unless the amount is a negative number in which case the maximum amount of assistance available under paragraph (1)(a) is payable).

(2) S.I. 1995/2705 (N.I. 15) Schedules 2 and 3; see also Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), Schedule 8 Part IV

(3) 1950 c. 29 (N.I.) Section 1(1) was substituted and sub-sections 1(A), 1(B) and 1(C) inserted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(7) Where under regulation 41 a student receives assistance in relation to more than one designated part-time course in an academic year, the maximum amount of assistance under paragraph (1)(a) for that year is the amount of the basic grant for the course with the highest intensity of study that the student undertakes in that academic year.

(8) For the purposes of this regulation—

- (a) “child” in relation to an eligible part-time student includes any child of his partner and any child for whom he has parental responsibility;
- (b) “current financial year” means the financial year which includes the first day of the academic year in respect of which a person is being assessed for assistance;
- (c) “dependent” means wholly or mainly financially dependent;
- (d) “financial year” means the period of twelve months for which the income of the eligible part-time student is computed for the purposes of the income tax legislation which applies to it;
- (e) “income” means gross income from all sources excluding any tax credits awarded in accordance with any claims under section 3 of the Tax Credits Act 2002;
- (f) subject to sub-paragraph (g), “partner” means any of the following—
 - (i) the spouse of an eligible part-time student;
 - (ii) the civil partner of an eligible part-time student;
 - (iii) a woman ordinarily living with a male eligible part-time student as if she were his wife where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which he is being assessed for assistance and where he began the designated part-time course before 1st September 2005;
 - (iv) a man ordinarily living with a female eligible part-time student as if he were her husband where an eligible part-time student is aged 25 or over on the first day of the academic year in respect of which she is being assessed for assistance and where she began the designated part-time course before 1st September 2005;
 - (v) a person ordinarily living with an eligible part-time student as if he were his spouse or civil partner where an eligible part-time student begins the designated part-time course on or after 1st September 2005;
- (g) a person who would otherwise be a partner under sub-paragraph (f) shall not be treated as a partner if—
 - (i) in the opinion of the Department, that person and the eligible part-time student have ceased ordinarily to live together; or
 - (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible part-time student;
- (h) “preceding financial year” means the financial year immediately preceding the current financial year;
- (i) “relevant income” has the meaning given in paragraph (9); and
- (j) where this regulation refers to a date before, on or after which an eligible part-time student began the designated part-time course and the student’s status as an eligible part-time student has been transferred to the designated part-time course as a result of one or more transfers of that status by the Department from a part-time course (the “initial course”) in connection with which the Department determined the student to be an eligible part-time student in accordance with regulations made under Article 3 of the Order, the eligible student shall be treated as if he began the present designated part-time course on the date on which he began the initial course.

- (9) For the purposes of this regulation—
- (a) subject to sub-paragraph (b), an eligible part-time student's relevant income is equal to his financial resources in the preceding financial year less—
 - (i) £2,000 in respect of his partner;
 - (ii) £2,000 in respect of the only or eldest child who is dependent on the student or his partner; and
 - (iii) £1,000 in respect of each other child who is dependent on the student or his partner;
 - (b) where the Department is satisfied that an eligible part-time student's financial resources in the preceding financial year are greater than his financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, it may assess that student's financial resources under sub-paragraph (a) by reference to those resources in the current financial year;
 - (c) an eligible part-time student's financial resources in a financial year means the aggregate of his income for that year together with the aggregate of the income for that year of any person who at the date of the application for support is the student's partner.

Grants for disabled part-time students' living costs

38.—(1) An eligible part-time student shall qualify in accordance with this Part for a grant to assist with the additional expenditure which the Department is satisfied he is obliged to incur in respect of his undertaking a designated part-time course by reason of a disability to which he is subject.

(2) Subject to the following paragraphs, the amount of grant under this regulation shall be the amount that the Department considers appropriate.

- (3) The amount of the grant shall not exceed—
- (a) £8,885 in respect of an academic year for expenditure on a non-medical personal helper;
 - (b) £4,680 in respect of all the academic years during the period of eligibility for expenditure on major items of specialist equipment;
 - (c) the additional expenditure incurred—
 - (i) within the United Kingdom for the purpose of attending the institution,
 - (ii) within or outside the United Kingdom for the purpose of attending, as a part of his course, any period of study at an overseas institution or for the purpose of attending the British Institute in Paris;
 - (d) £1,170 in respect of an academic year for any other expenditure including expenditure incurred for the purposes referred to in sub-paragraph (a) or (b) which exceeds the specified maxima.

Applications for support

39.—(1) A person (the “applicant”) shall apply for support in connection with each academic year of a designated part-time course by completing and submitting to the Department an application in such form and accompanied by such documentation as the Department may require.

(2) The general rule is that the application must reach the Department within a period of six months beginning with the first day of the academic year of the course in respect of which it is submitted.

- (3) The general rule in paragraph (2) does not apply where—

- (a) the course becomes a designated part-time course after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Department within a period of six months beginning with the day on which the course was designated;
- (b) the applicant, his spouse, his civil partner or his parent is recognised as a refugee or has been granted leave to enter or remain as mentioned in paragraph 3 of Schedule 2 after the first day of the academic year in respect of which the applicant is applying for support, in which case the application must reach the Department within a period of six months beginning with the day of recognition or the day the leave was granted, respectively; or
- (c) the applicant is applying for support under regulation 38, in which case the application must reach the Department as soon as is reasonably practicable;
- (d) the Department considers that having regard to the circumstances of the particular case the time limit should be relaxed, in which case the application must reach the Department not later than such date as it specifies.

(4) The Department may take such steps and make such inquiries as it considers necessary to determine whether the applicant is an eligible part-time student, whether he qualifies for support and the amount payable, if any.

(5) The Department shall notify the applicant of whether or not he qualifies for support and, if he does qualify, the amount of support payable in respect of the academic year, if any.

Information

40. Schedule 4 applies to the provision of information.

Transfer of status

41.—(1) Where an eligible part-time student transfers to another part-time course, the Department shall transfer the student's status as an eligible part-time student to that course where—

- (a) it receives a request from the eligible part-time student to do so;
- (b) it is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
- (c) the period of eligibility has not expired or been terminated.

(2) The grounds for transfer referred to in paragraph (1) are—

- (a) the eligible part-time student starts to undertake another designated part-time course at the institution;
- (b) the eligible part-time student starts to undertake a designated part-time course at another institution; or
- (c) after commencing a designated part-time course for a first degree (other than an honours degree) the eligible part-time student is, before the completion of that course, admitted to a designated part-time course for an honours degree in the same subject or subjects at the institution.

(3) Subject to paragraph (4), an eligible part-time student who transfers under paragraph (1) shall, for the remainder of the academic year in which he transfers, continue to receive in connection with the course to which he transfers the support for which the Department has determined he qualifies in respect of the course from which he transfers.

(4) The Department may re-assess the amount of support payable after the transfer in accordance with this Part.

Conversion of status

42.—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated part-time course at the same or at another institution, the Department shall convert the student's status as an eligible student to that of an eligible part-time student in connection with the course to which he is transferring where—

- (a) it receives a request from the eligible student to do so; and
- (b) the period of eligibility has not expired or been terminated.

(2) Where, before completing the designated course, the student transfers to a part-time course in the same subject or subjects leading to the same qualification at the same institution, the part-time course shall be treated as satisfying regulation 35(1)(b) if the period of part-time study to be undertaken by the student is of at least one academic year's duration and does not exceed twice the period normally required to complete the remainder of the designated course from which the student transfers.

(3) The following applies to a student who transfers under paragraph (1)—

- (a) where the Department has determined to pay an amount of grant to the student under regulation 14 in periodic instalments, no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible part-time student;
- (b) the maximum amount of grant to which the student would, apart from this regulation, be entitled in accordance with regulation 38 in connection with his undertaking a designated part-time course in respect of that academic year shall be reduced by one third where the student became an eligible part-time student during the second quarter of the academic year and by two thirds where he became such a student in a later quarter of that year;
- (c) where an amount of grant for any purpose has been paid to the student under regulation 14 in a single instalment, the maximum amount of grant payable to him in accordance with regulation 38 for that purpose shall be reduced (or, where sub-paragraph (b) applies, further reduced) by the amount of grant paid to him for that purpose in accordance with regulation 14, and where the resulting amount is nil or a negative amount that amount shall be nil; and
- (d) where immediately before he became an eligible part-time student he was eligible to apply, but had not applied, for a loan for living costs in respect of that year, or had not applied for the maximum amount or increased maximum for which he was entitled, he may apply for such a loan or such additional amount of loan as if he had continued to be an eligible student; and in the circumstances mentioned in paragraph (4) the maximum or increased maximum amount of such loan for the academic year shall be reduced in accordance with that paragraph.

(4) Where the request under paragraph (1) is made during the first quarter of the academic year in respect of which the loan is payable the maximum amount or increased maximum amount of loan (as the case may be) shall be reduced by two thirds, and where the request is made during the second quarter of that year that amount shall be reduced by one third.

(5) Where an eligible part-time student ceases to undertake a designated part-time course and transfers to a designated course at the same or at another institution, the Department shall convert that student's status as an eligible part-time student to that of an eligible student in connection with the course to which he is transferring where—

- (a) it receives a request from the eligible part-time student to do so; and
- (b) the period of eligibility has not expired or been terminated.

(6) The following applies to a student who transfers under paragraph (5)—

- (a) where the Department has determined to pay an amount of grant to the student in accordance with regulation 38 in periodic instalments no payment in respect of that amount of grant shall be made in respect of any instalment period beginning after the date on which the student became an eligible student;
- (b) any support to which the student is entitled under this Part in respect of the academic year in which the student transfers shall be ignored in determining the amount of support to which he may be entitled in respect of that year under Parts 4 to 6;
- (c) the maximum amount of any support under Part 5 or 6 to which the student would, apart from this regulation, be entitled in connection with a designated course in respect of that academic year shall be reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where he became such a student in a later quarter of that year; and
- (d) where an amount of grant for any purpose has been paid to the student in accordance with regulation 38 in a single instalment, the maximum amount of grant payable to him under regulation 14 for that purpose shall be reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of grant paid to him for that purpose in accordance with regulation 38 and where the resulting amount is nil or a negative amount that amount shall be nil.

Payment of support to eligible part-time students

43.—(1) The Department shall pay support under regulation 38 and under regulation 37(1)(b) in such instalments (if any) and at such times as it considers appropriate and in the exercise of its functions under this paragraph it may, where a final assessment cannot be made on the basis of the information provided by the student, make a provisional assessment of the support payable.

(2) Payments shall be made in such manner as the Department considers appropriate and it may make it a condition of entitlement to payment that the eligible part-time student shall provide it with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

Payment of grants for fees

44.—(1) Subject to paragraphs (2) and (3), the Department shall pay the grant in respect of fees for which the student qualifies under regulation 37(1)(a) to the appropriate academic authority after a valid request for payment has been received.

(2) The Department may make payments under paragraph (1) at such times and in such instalments as it sees fit.

(3) The Department may make provisional payments under paragraph (1) in such cases as it deems appropriate.

Overpayments

45.—(1) Any overpayment of a grant in respect of fees under regulation 37(1)(a) may be recovered by the Department from the academic authority.

(2) An eligible part-time student shall, if so required by the Department, repay any amount paid to him under this Part which for whatever reason exceeds the amount of grant to which he is entitled under this Part.

(3) Any overpayment of grant under this Part may be recovered in whichever one or more of the following ways the Department considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from any kind of grant payable to the student from time to time in accordance with regulations made under Article 3 of the Order;
- (b) by taking such other action for the recovery of an overpayment as is available to it.