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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 37**

**The Education (Student Support)  
Regulations (Northern Ireland) 2009**

**PART 11**

**SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES**

**Eligible distance learning students**

**108.**—(1) An eligible distance learning student qualifies for support in connection with the student undertaking a designated distance learning course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible distance learning student in connection with a designated distance learning course if in assessing the person's application for support the Department determines that the person falls within one of the categories set out in Part 2 of Schedule 2.

(3) A person ("A") is not an eligible distance learning student if—

- (a) subject to paragraph (4), there has been made to, or paid to, A in connection with the distance learning course—
  - (i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to the person's income; or
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(1);
- (b) A is in breach of any obligation to repay any loan;
- (c) A has reached the age of 18 and has not ratified any agreement for a loan A made when A was under the age of 18;
- (d) A has, in the opinion of the Department, shown by A's conduct that A is unfitted to receive support; or
- (e) subject to paragraph (5), A is a prisoner.

(4) Paragraph (3)(a) does not apply if—

- (a) the person applying for support is a disabled student; and
- (b) there has been made to, or paid, to the person in connection with the distance learning course a healthcare bursary the amount of which is calculated by reference to the person's income;

(5) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison or is released from prison.

(6) For the purposes of paragraphs (3)(b) and (3)(c), "loan" means a loan made under any provision of the student loans legislation.

(7) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) only applies 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 the borrower had no curator.

(8) Subject to paragraphs (11) to (13), if a person satisfies the conditions in paragraph (9) or (10)—

- (a) paragraphs (2) and (3) do not apply to that person; and
- (b) that person is an eligible distance learning student for the purposes of this Part.

(9) The conditions in this paragraph are—

- (a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the current designated distance learning course pursuant to regulations made by the Department under Article 3 of the Order; and
- (b) the person’s status as an eligible distance learning student has not terminated.

(10) The conditions in this paragraph are—

- (a) the Department has previously determined that the person is—
  - (i) an eligible student in connection with a designated course;
  - (ii) an eligible distance learning student in connection with a designated distance learning course other than the current distance learning course; or
  - (iii) an eligible part-time student in connection with a designated part-time course;
- (b) the person’s status as an eligible student, eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current designated distance learning course as a result of one or more conversions or transfers in accordance with regulations made by the Department under Article 3 of the Order; and
- (c) the person’s status as an eligible distance learning student has not terminated.

(11) Where—

- (a) the Department determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person (“A”) was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which A’s status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of A’s spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002(2)),

A’s status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(12) Where—

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(2) 2002 c.41. Section 104 was amended by the [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004 \(c. 19, Schedules 2 and 4](#) and the [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), section 9

- (a) the Department determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which A’s status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A’s status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Department determined that the person was an eligible student or eligible part-time student, as the case may be, before 21st September 2007.

(14) An eligible distance learning student may not, at any one time, qualify for support for—

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

### **Students becoming eligible during the course of the academic year**

**109.**—(1) Where one of the events listed in paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant in respect of fees in respect of that academic year in accordance with this Part provided that the relevant event occurred within the first three months of the academic year; and
- (b) a grant in respect of fees is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(2) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for a grant for books, travel and other expenditure in respect of that academic year in accordance with this Part; and
- (b) a grant for books, travel and other expenditure is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(3) Where one of the events listed in sub-paragraphs (a), (b), (e), (f), (g), (h) or (i) of paragraph (4) occurs in the course of an academic year—

- (a) a student may qualify for disabled distance learning students’ allowance in respect of that academic year in accordance with this Part; and
- (b) disabled distance learning students’ allowance is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(4) The events are—

- (a) the student’s course becomes a designated distance learning course;

- (b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person with leave to enter or remain;
- (c) a state accedes to the European Community and the student is a national of that state or a family member (as defined in Part 1 of Schedule 2) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 2) of an EC national;
- (e) the state of which the student is a national accedes to the European Community where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (f) the student acquires the right of permanent residence;
- (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 2;
- (h) the student becomes the child of a Swiss national; or
- (i) the student becomes the child of a Turkish worker.

#### **Designated distance learning courses**

**110.**—(1) A course is designated for the purposes of Article 3(1) of the Order and regulation 108 if it is designated by the Department under this regulation.

(2) Subject to paragraph (4), the Department may designate a course under this regulation if in the Department's opinion—

- (a) the course is mentioned in Schedule 3 other than a course for the initial training of teachers;
- (b) the course is a full-time course;
- (c) the course is of at least one academic year's duration; and
- (d) students undertaking the course in the United Kingdom are not required to be in attendance on it by the institution or institutions providing the course.

(3) For the purposes of determining whether the requirement in paragraph (2)(d) is satisfied the Department may disregard—

- (a) any requirement imposed by the institution or institutions providing the course to attend any institution for the purposes of—
  - (i) registration or enrolment;
  - (ii) an examination;
- (b) any requirement imposed by the institution or institutions providing the course to attend any institution on a weekend or during any vacation;
- (c) any period of attendance at the institution or institutions providing the course which a student may but is not required to complete by that institution or those institutions.

(4) The Department may not designate a course as a designated distance learning course if—

- (a) it falls within paragraph 7 or 8 of Schedule 3; and
- (b) the governing body of a school has arranged for the provision of the course to a pupil of the school.

(5) A first degree course is not a designated course where—

- (a) it leads to the award of a professional qualification;
- (b) a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification; and
- (c) the current course begins on or after 1st September 2009.

### **Period of eligibility**

**111.**—(1) A student’s status as an eligible distance learning student is retained in connection with a designated distance learning course until the status terminates in accordance with this regulation or regulation 108.

(2) The period for which an eligible distance learning student retains that status is the “period of eligibility”.

(3) Subject to the following paragraphs and regulation 108, the period of eligibility terminates at the end of the academic year in which the eligible distance learning student completes the designated distance learning course.

(4) The period of eligibility terminates when the eligible distance learning student (“A”)—

(a) withdraws from A’s designated distance learning course in circumstances where the Department has not transferred or converted or will not transfer or convert A’s status under regulation 119, 120, 121 or 138; or

(b) abandons or is expelled from A’s designated distance learning course.

(5) The Department may terminate the period of eligibility where A has shown by A’s conduct that A is unfitted to receive support.

(6) If the Department is satisfied that an eligible distance learning 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 the Department 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 124.

(7) Where the period of eligibility terminates before the end of the academic year in which the eligible distance learning student completes the designated distance learning course the Department may, at any time, renew or extend the period of eligibility for such period as the Department determines.

### **Support for distance learning courses**

**112.**—(1) For the purposes of this regulation, the support available is—

(a) a grant in respect of fees not exceeding the lesser of the following amounts—

(i) £1,210; and

(ii) the “actual fees”, being the amount of fees charged to the student in respect of an academic year of the designated distance learning course; and

(b) a grant not exceeding £260 for books, travel and other expenditure in connection with the designated distance learning course.

(2) An eligible distance learning student does not qualify for support under paragraph (1)(b) if the only paragraph in Part 2 of Schedule 2 into which the student falls is paragraph 9.

(3) An eligible distance learning student does not qualify for support under this regulation if—

(a) the student is a disabled student; and

(b) there has been made to, or paid to the student in connection with the designated distance learning course a healthcare bursary the amount of which is calculated by reference to the student’s income;

(4) An eligible distance learning student does not qualify for support under this regulation unless the Department considers that the student is undertaking the designated distance learning course in Northern Ireland.

(5) An eligible distance learning student does not qualify for support under this regulation if the student has undertaken one or more distance learning courses for eight academic years in aggregate and the student has received in respect of each of those academic years a loan or a grant of the kind described in paragraph (6).

(6) The loans and grants 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 distance learning course pursuant to 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 distance learning course by the Department for Innovation, Universities and Skills pursuant to regulations made under section 22 of the 1998 Act; or
- (c) a loan in respect of an academic year of a distance learning course made pursuant to regulations made under sections 73(f), 73B and 74(1) of the Education (Scotland) Act 1980<sup>(3)</sup>.

(7) An eligible distance learning student does not qualify for support under this regulation if—

- (a) the distance learning course leads to an equivalent or lower qualification;
- (b) the student holds a first degree from an educational institution in the United Kingdom and the student began the course before 1st September 2009; or
- (c) the student holds a first degree from a relevant institution of higher education in the Republic of Ireland and the student began his course before 1st September 2009.

(8) For the purposes of paragraph (7)(b) and (c), a degree is not to be treated as a first degree where—

- (a) it is a degree (other than an honours degree) that has been awarded to an eligible distance learning student who has completed the required modules, examinations or other forms of assessment for the student's first degree course; and
- (b) the eligible distance learning student is registered to continue the course at the same educational institution after the award of the student's degree so as to obtain an honours degree on completion of the required modules, examinations or other form of assessment.

### **Amount of support**

**113.**—(1) Subject to paragraph (2) and regulation 119(6), the amount of support payable in respect of an academic year is determined as follows—

(a) if at the date of the eligible distance learning student's application the student or the student's partner is entitled—

- (i) under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(4)</sup> to income support or housing benefit;

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(3) 1980 c.44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1) and the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2). Section 73B was inserted by section 29(2) of the Teaching and Higher Education Act 1998 and was amended by section 34(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46)

(4) 1992 c.7; Part VII was amended by paragraph 16 of Schedule 4 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) (Transitory Modifications), paragraph 5 of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992 No. 3204 (N.I. 20)), Article 3(2) of the Social Security (Amendment) (Northern Ireland) Order 1993

- (ii) under Part II of the Jobseekers (Northern Ireland) Order 1995<sup>(5)</sup> to income-based jobseeker's allowance or under section 1 of the Employment and Training (Northern Ireland) Act 1950<sup>(6)</sup> to training allowance or training premium;
- (iii) under Article 30A of the Rates (Northern Ireland) Order 1977<sup>(7)</sup> to rates relief; or
- (iv) under Part 1 of the Welfare Reform Act (Northern Ireland) 2007<sup>(8)</sup> to an income-related employment and support allowance;

the maximum amount of support available under regulation 119(1) is payable;

- (b) where the relevant income is less than £16,510, the maximum amount of support available under regulation 112(1) is payable;
- (c) where the relevant income is £16,510, the maximum amount of support available under regulation 112(1)(b) is payable together with £50 less than the maximum amount of support available under regulation 112(1)(a);
- (d) where the relevant income exceeds £16,510 but is less than £24,915, the maximum amount of support available under regulation 112(1)(b) is payable and the amount of support payable under regulation 112(1)(a) is the amount determined in accordance with paragraph (2);
- (e) where the relevant income is £24,915, the maximum amount of support available under regulation 112(1)(b) is payable and the amount of support payable under regulation 112(1)(a) is £50;
- (f) where the relevant income exceeds £24,915 but is less than £25,510, the maximum amount of support available under regulation 112(1)(b) is payable and no support is payable under regulation 112(1)(a);
- (g) where the relevant income is £25,510 or more but less than £27,505, the amount of support payable under regulation 112(1)(b) is the amount left after deducting from the maximum amount of support available under regulation 112(1)(b) £1 for every complete £9.50 by which the relevant income exceeds £25,510, and no support is payable under regulation 112(1)(a);
- (h) where the relevant income is £27,505, the amount of support payable under regulation 112(1)(b) is £50, and no support is payable under regulation 112(1)(a);
- (i) where the relevant income exceeds £27,505, no support is payable under regulation 112(1).

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(S.I. 1993 No. 1579 (N.I. 8)), Article 18 of the Social Security Benefits Up-rating Order (Northern Ireland) 1993 (S.R. 1993 No. 150), paragraphs 31 and 32 of Schedule 1 and 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994 No. 1898 (N.I. 12)), Schedules 2 and 3 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995 No. 2705 (N.I. 15)), paragraph 26 of Schedule 8 to the Welfare Reform and Pension (Northern Ireland) Order 1999 (S.I. 1999 No. 3147 (N.I. 11)), Article 20 of the Social Security Benefits Up-rating Order (Northern Ireland) 1999 (S.R. 1999 No. 50), Schedule 2 of the State Pension Credit Act (Northern Ireland) 2002 (c. 14), Schedule 6 to the Tax Credit Act 2002 (c. 21), Article 8 of the Housing Support Services (Northern Ireland) Order 2002 (S.I. 2002 No. 3154 (N.I. 8)), paragraph 200 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 24 to the Civil Partnership Act 2004 (c. 33), Article 18 of the Social Security Benefits Up-rating Order (Northern Ireland) 2006 and section 33(2) and Schedules 3 and 8 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2)

- (5) S.I. 1995/2705 (N.I. 15); Part II was modified by regulations 159 and 160 of the Jobseeker's Allowance Regulations (Northern Ireland) 1996 (S.R. 1996 No. 198) and was amended by Schedule 1 to the Employments Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 N.I. 16), Schedules 6 and 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), Schedules 3, 7, 8 and 10 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2), Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c.14), Schedule 1 to the National Insurance Contributions Act 2002 (c.19), Schedule 6 to the Income Tax (Earning and Pensions) Act 2003 (c.1), Schedule 24 to the Civil Partnership Act 2004 (c.33) and paragraph 2 of the Schedule to the Pensions (2004 Act and 2005 Order) (PPF Payments and FAS Payments) (Consequential Provisions) Order (Northern Ireland) 2006 (S.R. 2006 No. 37)
- (6) 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) S.I. 1977/2157 (N.I. 28)
- (8) N.I. 2007 (c.2)

(2) Where paragraph (1)(d) applies, the amount of support payable under regulation 112(1)(a) is determined by deducting from the maximum amount of support available under regulation 112(1)

(a) one of the following amounts—

- (a) £50 plus a further £1 for each complete £7.57 by which the relevant income exceeds £16,510; or
- (b) where the actual fees are less than £1,210, an amount equal to that left after deducting from the amount calculated under sub-paragraph (a) the difference between £1,210 and the actual fees (unless the amount is a negative number in which case the maximum amount of support available under regulation 112(1)(a) is payable).

### **Interpretation of regulation 113**

**114.**—(1) For the purposes of regulation 113—

(a) subject to sub-paragraph (b), “partner” means any of the following—

- (i) the spouse of an eligible distance learning student;
- (ii) the civil partner of an eligible distance learning student;
- (iii) a person ordinarily living with an eligible distance learning student as if that person were the student’s spouse where an eligible distance learning student is aged 25 or over on the first day of the academic year in respect of which that student is being assessed for support and where that student began the specified designated distance learning course before 1st September 2005;
- (iv) a person ordinarily living with an eligible distance learning student as if that person were the student’s spouse or civil partner where an eligible distance learning student begins the specified designated distance learning course on or after 1st September 2005;

(b) a person who would otherwise be a partner under sub-paragraph (a) is not to be treated as a partner if—

- (i) in the opinion of the Department, that person and the eligible distance learning student are separated; or
- (ii) the person is ordinarily living outside the United Kingdom and is not maintained by the eligible distance learning student;

(c) “relevant income” has the meaning given in paragraph (2).

(2) Subject to paragraph (3), an eligible distance learning student’s relevant income is equal to the student’s financial resources in the preceding financial year less—

- (i) £2,000 in respect of the student’s partner;
- (ii) £2,000 in respect of the only or eldest child who is dependent on the student or the student’s partner; and
- (iii) £1,000 in respect of each other child who is dependent on the student or the student’s partner.

(3) Where the Department is satisfied that an eligible distance learning student’s financial resources in the preceding financial year are greater than the student’s financial resources in the current financial year and that the difference between the two amounts is £1,000 or more, the Department may assess that student’s financial resources by reference to those resources in the current financial year.

(4) In this regulation—

- (a) “child” in relation to an eligible distance learning student includes any child of the student’s partner and any child for whom the student 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 support;
- (c) “dependent” means wholly or mainly financially dependent;
- (d) “financial year” means the period of twelve months for which the income of the eligible distance learning student is computed for the purposes of the income tax legislation which applies to it;
- (e) “financial resources in a financial year” means the aggregate of the student’s 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.
- (f) “income” means gross income from all sources excluding any tax credits awarded pursuant to any claims under section 3 of the Tax Credits Act 2002<sup>(9)</sup>;
- (g) “preceding financial year” means the financial year immediately preceding the current financial year;
- (h) “specified designated distance learning course” means the course in respect of which the person is applying for support or, where the student’s status as an eligible distance learning student has been transferred to the current designated distance learning course as a result of one or more transfers of that status by the Department from a distance learning course (the “initial course”) in connection with which the Department determined the student to be an eligible distance learning student pursuant to regulations made under Article 3 of the Order, the specified designated distance learning course means the initial course.

### **Disabled distance learning students’ allowance**

**115.**—(1) An eligible distance learning student qualifies in accordance with this Part for a grant to assist with the additional expenditure which the Department is satisfied the student is obliged to incur by reason of a disability to which the student is subject in respect of undertaking a designated distance learning course.

(2) An eligible distance learning student does not qualify for the grant under this regulation if the only paragraph in Part 2 of Schedule 2 into which the student falls is paragraph 9.

(3) An eligible distance learning student does not qualify for the grant under this regulation in respect of any academic year that is a bursary year.

(4) An eligible distance learning student does not qualify for the grant under this regulation unless the Department considers that the student is undertaking the designated distance learning course in Northern Ireland.

(5) Subject to the following paragraphs, the amount of grant under this regulation is the amount that the Department considers appropriate in accordance with the student’s circumstances.

(6) The amount of the grant under this regulation must not exceed—

- (a) £20,520 in respect of an academic year for expenditure on a non-medical personal helper;
- (b) £5,161 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 the course, any period of study at an overseas institution or for the purpose of attending the Institute;

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(9) 2002 c.21; section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24

- (d) £1,724 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**

**116.**—(1) A person (the “applicant”) must apply for support in connection with each academic year of a designated distance learning course by completing and submitting to the Department an application in such form as the Department may require.

(2) The application must be accompanied by—

- (a) a declaration under regulation 117 completed by the academic authority; and
- (b) such additional documentation as the Department may require.

(3) The Department may take such steps and make such inquiries as the Department considers necessary to determine whether the applicant is an eligible distance learning student, whether the applicant qualifies for support and the amount of support payable, if any.

(4) The Department must notify the applicant of whether the applicant qualifies for support and, if the applicant does qualify, the amount of support payable in respect of the academic year, if any.

(5) 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.

(6) The general rule does not apply where—

- (a) one of the events listed in paragraph (4) of regulation 109 occurs 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 not later than the end of the sixth month beginning with the day on which the relevant event occurred;
- (b) the applicant is applying for the disabled distance learning students’ allowance, in which case the application must reach the Department as soon as is reasonably practicable; or
- (c) 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.

### **Declarations provided by academic authorities**

**117.**—(1) Subject to paragraph (2), the academic authority must, on the request of the applicant, complete a declaration in such form as may be required by the Department to accompany the application for support.

(2) An academic authority is not required to complete a declaration if it is unable to give the confirmation required.

(3) In this Part, “declaration” means—

- (a) where the applicant is applying for support in connection with the designated distance learning course for the first time, a statement that—
  - (i) provides the course information; and
  - (ii) confirms that the applicant has undertaken at least two weeks of the designated distance learning course;
- (b) in any other case, a statement that—
  - (i) provides the course information; and

- (ii) confirms that the applicant has enrolled to undertake the academic year of the designated distance learning course in respect of which the applicant is applying for support.
- (4) In this regulation, “course information” means—
  - (a) the amount of fees being charged in respect of the academic year in respect of which the applicant is applying for support;
  - (b) certification by the academic authority that it considers the applicant is undertaking the designated distance learning course in Northern Ireland; and
  - (c) in any case where the applicant is a disabled student, certification by the academic authority that it considers the applicant has chosen to undertake the designated distance learning course for a reason other than that the applicant is unable to attend a designated course for a reason which relates to the applicant’s disability.

### **Information**

**118.** Schedule 4 deals with the provision of information.

### **Transfer of status**

**119.—(1)** Where an eligible distance learning student transfers to another distance learning course, the Department must transfer the student’s status as an eligible distance learning student to that course where—

- (a) the Department receives a request from the eligible distance learning student to do so;
  - (b) the Department is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
  - (c) the period of eligibility has not terminated.
- (2) The grounds for transfer are—
- (a) the eligible distance learning student starts to undertake another designated distance learning course at the institution;
  - (b) the eligible distance learning student starts to undertake a designated distance learning course at another institution; or
  - (c) after commencing a designated distance learning course for a first degree (other than an honours degree) the eligible distance learning student is, before the completion of that course, admitted to a designated distance learning course for an honours degree in the same subject or subjects at the institution.
- (3) Subject to paragraph (4), an eligible distance learning student who transfers under paragraph (1) is entitled to receive in connection with the academic year of the course to which the student transfers the remainder of the support for which the Department has determined the student qualifies in respect of the academic year of the course from which the student transfers.
- (4) The Department may re-assess the amount of support payable after the transfer.
- (5) An eligible student who transfers under paragraph (1) after the Department has determined the student’s support in connection with the academic year of the course from which the student is transferring but before the student completes that year may not apply for another grant under regulation 112(1)(b) or regulation 115 in connection with the academic year of the course to which the student transfers.
- (6) Where a student transfers under paragraph (1), the maximum amount of support under regulation 112(1)(a) in respect of the academic years to and from which the student transfers is the

amount of support available in connection with the course with the highest actual fees as defined in regulation 112.

### **Conversion of status – eligible students transferring to designated distance learning courses**

**120.**—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated distance learning course at the same or at another institution, the Department must convert the student's status as an eligible student to that of an eligible distance learning student in connection with the course to which eligible student is transferring where—

- (a) the Department receives a request from the eligible student to do so; and
  - (b) the period of eligibility has not terminated.
- (2) The following applies to a student who transfers under paragraph (1)—
- (a) where the Department has determined to pay an amount of disabled students' allowance to the student under Chapter 3 of Part 5 in periodic instalments, no payment in respect of that amount of grant must be made in respect of any instalment period beginning after the date on which the student becomes an eligible distance learning student;
  - (b) the maximum amount of disabled distance learning students' allowance to which the student would, apart from this regulation, be entitled in connection with undertaking a designated distance learning course in respect of that academic year is reduced by one third where the student became an eligible distance learning student in the second quarter of the academic year and by two thirds where the student became such a student in a later quarter of that year;
  - (c) where an amount of disabled students' allowance for any purpose has been paid to the student under Chapter 3 of Part 5 in a single instalment, the maximum amount of disabled distance learning students' allowance payable for that purpose is reduced (or, where subparagraph (b) applies, further reduced) by the amount of grant paid to the student for that purpose pursuant to Chapter 3 of Part 5, and where the resulting amount is nil or a negative amount that amount is nil; and
  - (d) where immediately before the student became an eligible distance learning student the student 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 to which the student was entitled, the student may apply for such a loan or such additional amount of loan as if the student had continued to be an eligible student; and in the circumstances mentioned in paragraph (3) the maximum amount or increased maximum amount of such loan for the academic year is reduced in accordance with that paragraph.
- (3) 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) is reduced by two thirds, and where the request is made during the second quarter of that year that amount is reduced by one third.

### **Conversion of status – eligible distance learning students transferring to designated courses**

**121.**—(1) Where an eligible distance learning student ceases to undertake a designated distance learning course and transfers to a designated course at the same or at another institution, the Department must convert the student's status as an eligible distance learning student to that of an eligible student in connection with the course to which the student is transferring where—

- (a) the Department receives a request from the eligible distance learning student to do so; and
  - (b) the period of eligibility has not terminated.
- (2) The following applies to a student who transfers under paragraph (1)—

- (a) where the Department has determined to pay an amount of disabled distance learning students' allowance to the student in periodic instalments no payment in respect of that amount of grant must 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 is ignored in determining the amount of support to which the student 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 is reduced by one third where the student became an eligible student during the second quarter of that academic year and by two thirds where the student became such a student in a later quarter of that year; and
- (d) where an amount of disabled distance learning students' allowance for any purpose has been paid to the student in a single instalment, the maximum amount of disabled students' allowance payable under Chapter 3 of Part 5 for that purpose is reduced (or, where sub-paragraph (c) applies, further reduced) by the amount of disabled distance learning students' allowance paid to the student for that purpose and where the resulting amount is nil or a negative amount that amount is nil.

#### **Payment of grants for fees**

**122.**—(1) Subject to paragraphs (2) and (3), the Department must pay the grant in respect of fees for which the student qualifies 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 the Department sees fit.

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

#### **Payment of grants for books, travel and other expenditure and disabled distance learning students' allowance**

**123.**—(1) Payments of the grant for books, travel and other expenditure and the disabled distance learning students' allowance may be made in such manner as the Department considers appropriate and the Department may make it a condition of entitlement to payment that the eligible distance learning student must provide the Department with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(2) Where the Department cannot make a final assessment on the basis of the information provided by the student, the Department may make a provisional assessment and payment of the grant for books, travel and other expenditure and the disabled distance learning students' allowance.

(3) The Department may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance in instalments.

(4) Subject to paragraph (5), the Department may pay the grant for books, travel and other expenditure and the disabled distance learning students' allowance at such times as the Department considers appropriate.

(5) The Department must not pay the first instalment or, where it has been determined not to pay support in instalments, make any payment of the grant for books, travel and other expenditure or the disabled distance learning students' allowance before the Department has received a declaration under regulation 117 unless an exception applies.

(6) An exception applies if—

- (a) a disabled distance learning students' allowance is payable in which case that particular grant may be paid before the Department has received a declaration;
- (b) the Department has determined that owing to exceptional circumstances it would be appropriate to make a payment without receiving a declaration.

### **Overpayments**

**124.**—(1) Any overpayment of a grant in respect of fees is recoverable by the Department from the academic authority.

(2) An eligible distance learning student must, if so required by the Department, repay any amount paid to the student under this Part which for whatever reason exceeds the amount of grant to which the student is entitled under this Part.

(3) The Department must recover an overpayment of grant for books, travel and other expenditure and disabled distance learning students' allowance unless the Department considers that it is not appropriate to do so.

(4) The methods of recovery are—

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

(5) A payment of the disabled distance learning students' allowance made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Department decides otherwise.

(6) In this regulation, the "relevant date" is the date on which the first term of the academic year in question actually begins.

(7) In the circumstances set out in paragraph (8) or (9), there is an overpayment of the disabled distance learning students' allowance unless the Department decides otherwise.

(8) The circumstances are—

- (a) the Department applies all or part of the disabled distance learning students' allowance to the purchase of specialist equipment on behalf of the eligible distance learning student;
- (b) the student's period of eligibility terminates after the relevant date; and
- (c) the equipment has not been delivered to the student before the period of eligibility terminated.

(9) The circumstances are—

- (a) the eligible distance learning student's period of eligibility terminates after the relevant date; and
- (b) a payment of the disabled distance learning students' allowance in respect of specialist equipment is made to the student after the period of eligibility terminated.

(10) Where there is an overpayment of the disabled distance learning students' allowance, the Department may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if the Department considers it is appropriate to do so.