
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 37

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

PART 13

SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

Eligible postgraduate students

142.—(1) An eligible postgraduate student qualifies, subject to and 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 postgraduate course.

(2) Subject to paragraph (4), a person is an eligible postgraduate student in connection with a designated postgraduate course if in assessing the student's application for support the Department determines that the student satisfies the conditions in paragraph (3).

(3) The conditions are—

- (a) the person falls within one of the categories set out in Part 2 of Schedule 2; and
- (b) by reason of a disability to which the student is subject, the student will be obliged to incur additional expenditure in respect of undertaking the course.

(4) A person ("A") is not an eligible postgraduate student if—

- (a) there has been made to, or paid to, A in connection with the course—
 - (i) a healthcare bursary;
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007;
 - (iii) any allowance, bursary or award of similar description made by a Research Council;
 - (iv) any allowance, bursary or award of similar description made by A's institution which includes any payment for the purpose of meeting additional expenditure incurred by A by reason of A's disability; or
 - (v) any allowance, bursary or award of similar description made under section 14(4)(a) of the Health and Personal Social Services Act (Northern Ireland) 2001(1) which includes payment for meeting additional expenditure incurred by A by reason of A's disability;
- (b) A is in breach of an obligation to repay any loan;
- (c) A has reached the age of 18 and has not ratified any agreement for a loan made with A when A was under the age of 18; or

- (d) A has, in the opinion of the Department, shown by A's conduct that A is unfitted to receive support.
- (5) For the purposes of paragraphs (4)(b) and (4)(c), "loan" means a loan made under any provision of the student loans legislation.
- (6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (4)(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.
- (7) An eligible postgraduate student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 2 into which the student falls is paragraph 9.
- (8) An eligible postgraduate student does not qualify for a grant under this Part unless the Department considers that the student is undertaking the course in the United Kingdom.
- (9) Subject to paragraphs (12) to (14), if a person satisfies the conditions in paragraph (3)(b) and in paragraph (10) or (11)—
 - (a) paragraphs (3)(a) and (4) do not apply to that person; and
 - (b) the person is an eligible postgraduate student for the purposes of this Part.
- (10) The conditions are—
 - (a) the person qualified as an eligible postgraduate student in connection with an earlier academic year of the current designated postgraduate course pursuant to regulations made by the Department under Article 3 of the Order; and
 - (b) the person's status as an eligible postgraduate student has not terminated.
- (11) The conditions are—
 - (a) the Department has previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the current designated postgraduate course;
 - (b) the student's status as an eligible postgraduate student in connection with the course referred to in sub-paragraph (a) has been transferred from that course to the current designated postgraduate course as a result of one or more transfers in accordance with regulations made by the Department under Article 3 of the Order; and
 - (c) the person's status as an eligible postgraduate student has not terminated.
- (12) 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 postgraduate student in connection with an application for support for an earlier year of the current postgraduate course or an application for support in connection with another designated postgraduate course from which A's status as an eligible postgraduate student has been transferred to the current postgraduate 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 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 postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.
- (13) Where—

- (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 postgraduate student in connection with an application for support for an earlier year of the current postgraduate course or an application for support in connection with another designated postgraduate course from which A’s status as an eligible postgraduate student has been transferred to the current postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support, 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 postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(14) Paragraphs (12) and (13) do not apply where A began the course in connection with which the Department determined that A was an eligible postgraduate student before 1st September 2007.

(15) An eligible postgraduate student may not, at any one time, qualify for support for—

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

Students becoming eligible in the course of an academic year

143.—(1) Where one of the events listed in paragraph (2) occurs in the course of an academic year—

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

(2) The events are—

- (a) the student’s course becomes a designated postgraduate 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) 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;
- (d) the student acquires the right of permanent residence (as defined in Part 1 of Schedule 2);
- (e) the student becomes the child of a Turkish worker;
- (f) the student becomes a person described in paragraph 6(1)(a) of Schedule 2; or
- (g) the student becomes the child of a Swiss national.

Designated postgraduate courses

144.—(1) A postgraduate course is designated for the purposes of Article 3(1) of the Order and regulation 142 if—

- (a) it is a course for entry to which a first degree (or equivalent qualification) or higher is normally required;
 - (b) it is a course—
 - (i) of at least one academic year’s duration; and
 - (ii) in the case of a part-time course, it is ordinarily possible to complete the course in not more than twice the period ordinarily required to complete the full-time equivalent;
 - (c) it is wholly provided by a publicly funded educational institution or institutions in the United Kingdom or provided by such an institution or institutions in conjunction with an institution or institutions outside the United Kingdom; and
 - (d) it is not a course for the initial training of teachers or a course taken as part of an employment-based teacher training scheme.
- (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 it has entered 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 is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
 - (c) an institution is not to 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(2).
- (3) For the purposes of paragraph (1)(b)(ii)—
- (a) “full-time equivalent” means a full-time postgraduate course leading to the same qualification as the part-time postgraduate course in question;
 - (b) “period ordinarily required to complete the full-time equivalent” means the period that a standard full-time student would require to complete the full-time equivalent;
 - (c) “standard full-time student” means a student who is to be taken—
 - (i) to have begun the full-time equivalent on the same date as the eligible postgraduate student began the part-time postgraduate course in question;
 - (ii) not to have been excused any part of the full-time equivalent;
 - (iii) not to have repeated any part of the full-time equivalent; and
 - (iv) not to be absent from the full-time equivalent other than during vacations.
- (4) For the purposes of Article 3 of the Order and regulation 142, the Department may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

145.—(1) A student’s status as an eligible postgraduate student is retained in connection with a designated postgraduate course until the status is terminated in accordance with this regulation and regulation 142.

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

(3) Subject to the following paragraphs and regulation 142, the period of eligibility terminates at the end of the period ordinarily required for the completion of the designated postgraduate course.

(2) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27

- (4) The period of eligibility terminates when the eligible postgraduate student—
- (a) withdraws from the designated postgraduate course in circumstances where the Department has not transferred or will not transfer the student’s status as an eligible postgraduate student to another course under regulation 146; or
 - (b) abandons or is expelled from the designated postgraduate course.

(5) Where the eligible postgraduate student is undertaking a designated postgraduate course that is a part-time course, the period of eligibility terminates at the end of the relevant academic year where the student cannot complete the course within the period specified in regulation 144(1)(b)(ii).

(6) For the purposes of paragraph (5), “relevant academic year” means the academic year during or at the end of which it becomes impossible for the student to complete the course within the period specified in regulation 144(1)(b)(ii).

(7) The Department may terminate the period of eligibility where the eligible postgraduate student (“A”) has shown by A’s conduct that A is unfitted to receive support.

(8) If the Department is satisfied that an eligible postgraduate 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 a grant or any particular amount of grant;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 151.

(9) Where the period of eligibility terminates—

- (a) before the end of the academic year in which the eligible postgraduate student completes the designated postgraduate course; and
- (b) otherwise than under paragraph (5),

the Department may, at any time, renew or extend the period of eligibility for such period as the Department determines.

Transfer of status

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

- (a) the Department receives a request from the eligible postgraduate 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) on the recommendation of the academic authority the eligible postgraduate student starts to undertake another designated postgraduate course at the institution; or
- (b) the eligible postgraduate student starts to undertake a designated postgraduate course at another institution.

(3) Subject to paragraph (4), an eligible postgraduate 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 this Part in connection with the academic year of the course to which the student transfers.

Applications for support

147.—(1) A person (the “applicant”) must apply for a grant under this Part in connection with each academic year of a designated postgraduate 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 application must reach the Department as soon as is reasonably practicable.

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

(4) The Department must notify the applicant—

- (a) whether the applicant qualifies for a grant;
- (b) if the applicant does qualify, the amount payable in respect of the academic year, if any; and
- (c) how that amount is allocated between the types of eligible expenditure.

Information

148. Schedule 4 deals with the provision of information.

Amount of grant

149.—(1) Subject to paragraph (2), the grant under this Part is such amount as the Department considers appropriate to assist with one or more types of eligible expenditure.

(2) The grant must not exceed £10,260 in respect of an academic year.

(3) For the purposes of this Part, the “types of eligible expenditure” are—

- (a) expenditure on a non-medical helper;
- (b) expenditure on major items of specialist equipment; and
- (c) 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 part of the course, any period of study at an overseas institution or for the purposes of attending the Institute.

Payment of grant

150.—(1) The Department may pay a grant for which a student qualifies under this Part in such instalments (if any) and at such times as the Department considers appropriate and in the exercise of the Department's functions under this Part the Department may make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

(2) Payments are made in such manner as the Department considers appropriate and the Department may make it a condition of entitlement to payment that the eligible postgraduate 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.

Overpayments

151.—(1) An eligible postgraduate 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.

(2) The Department must recover an overpayment of grant under this Part unless the Department considers it is not appropriate to do so.

(3) 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.

(4) A payment of grant under this Part made before the relevant date is an overpayment if the student withdraws from the course before the relevant date unless the Department decides otherwise.

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

(6) In the circumstances in paragraphs (7) and (8), there is an overpayment of grant under this Part unless the Department decides otherwise.

(7) The circumstances are—

- (a) the Department applies all or part of the grant under this Part to the purchase of specialist equipment on behalf of the eligible postgraduate 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.

(8) The circumstances are—

- (a) the eligible postgraduate student’s period of eligibility terminates; and
- (b) a payment of grant under this Part in respect of specialist equipment is made to the student after the period of eligibility terminated.

(9) Where there is an overpayment of the grant under this Part, 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.