1994 No. 230

EDUCATION

The Education (Student Loans) Regulations (Northern Ireland) 1994

Made	*21st June 1994*
Coming into operation . .	*1st August 1994*

The Department of Education, in exercise of the powers conferred on it by Article 3(2) and and paragraphs 1(1), (3) and (4) and 2(1) and 3(4) of Schedule 2 to the Education (Student Loans) (Northern Ireland) Order 1990(**a**), and by section 2(2) of the European Economic Area Act 1993(**b**); and of every other power enabling it in that behalf, hereby makes the following Regulations:

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement.
2. Revocation.
3. Interpretation.

PART II

ELIGIBILITY FOR LOANS

4. Conditions of eligibility.

PART III

DESIGNATION OF COURSES

5. Designation of courses by the Department.

(**a**) S.I. 1990/1506 (N.I. 11)
(**b**) 1993 c. 51

PART IV

LOANS: PRINCIPAL, INTEREST AND REPAYMENTS

6. Amounts of loans.
7. Interest
8. Time and manner of repayments.
9. Discretion of loans administrator.
10. Repayment by disabled borrowers.
11. Deferment.
12. Cancellation.

PART V

HIGHER EDUCATION INSTITUTIONS: DUTIES

13. Duties of governing bodies in relation to loans.

SCHEDULE

Conditions of Eligibility

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Student Loans) Regulations (Northern Ireland) 1994 and shall come into operation on 1st August 1994.

Revocation

2.—(1) The Education (Student Loans) Regulations (Northern Ireland) 1993(**a**) are hereby revoked.

Interpretation

3.—(1) In these Regulations—

"accelerated course" means a course which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere) for a period of at least 40 weeks in the final year, being a course of two academic years' duration or a course for the degree of BA (Hons.) with Qualified Teacher Status awarded by St Martin's College, Lancaster;

(**a**) S.R. 1993 No. 288

"borrower" means a person to whom a loan has been made;

"disability-related benefits" means—

(*a*) the benefits or allowances payable pursuant to the Social Security Contributions and Benefits Act 1992(**a**) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**) known as invalidity benefit(**c**), severe disablement allowance(**d**), disability living allowance(**e**) and industrial injuries benefit(**f**);

(*b*) where income support is payable to the borrower under the Income Support (General) Regulations 1987(**g**); or the Income Support (General) Regulations (Northern Ireland) 1987(**h**), the amount of any disability premium and severe disability premium included in the applicable amount in calculating the income support payable, which amount shall for the purposes of regulations 10(1) and 11(5) be considered to be a disability related benefit which is being received, which has been paid or which will be likely to be paid, as the case may be; and

(*c*) disability working allowance payable under sections 123(1)(*c*) and 129 of the Social Security Contributions and Benefits Act 1992 or sections 122(1)(*c*) and 128 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

"eligible" means eligible for the purposes of Article 3 of the Order read with regulation 4 and the Schedule;

"full-time course" means a sandwich course or a course—

(*a*) which persons undertaking it are normally required by the institution providing it to attend (whether at premises of the institution or elsewhere)—

(i) in the case of a course of one academic year's duration, for a period of at least 24 weeks; and

(ii) in the case of a course of two or more academic years' duration, for a period of at least 24 weeks in each academic year except the final year and of at least eight weeks in the final year; and

(*b*) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each academic year to an

---

(**a**) 1992 c. 4 ("the Great Britain Act")
(**b**) 1992 c. 7 ("the Northern Ireland Act")
(**c**) *See* section 20(1)(*c*) of the Great Britain Act and section 20(1)(*c*) of the Northern Ireland Act
(**d**) *See* sections 63(*b*) and 68 of the Great Britain Act and sections 63(*b*) and 68 of the Northern Ireland Act
(**e**) *See* sections 63(*d*) and 71 of the Great Britain Act and sections 63(*d*) and 71 of the Northern Ireland Act
(**f**) *See* section 94(1) and (2) of the Great Britain Act and section 94(1) and (2) of the Northern Ireland Act
(**g**) S.I. 1987/1967; *see* Parts III and IV of Schedule 2, the relevant amending regulations are S.I. 1988/663, S.I. 1988/2022, S.I. 1989/1678, S.I. 1990/1776, S.I. 1991/236, S.I. 1991/387, S.I. 1991/2742, S.I. 1992/468, S.I. 1993/1150, 2119 and S.I. 1994/542
(**h**) S.R. 1987 No. 459; *see* Parts III and IV of Schedule 2, the relevant amending regulations are S.R. 1988 Nos. 146 and 431, S.R. 1989 No. 395, S.R. 1990 Nos. 346 and 387, S.R. 1992 Nos. 6 and 147, S.R. 1993 No. 218, 373 and S.R. 1994 No. 74. *See* also S.R. 1991 No. 474

average of at least 21 hours a week as respects the periods of attendance mentioned in sub-paragraph (*a*) for the year;

"loan" means a loan (whether made before or after the coming into operation of these Regulations) towards a student's maintenance out of money made available by the Department for that purpose pursuant to arrangements made by the Department by virtue of Article 3 of the Order including the interest accrued on the loan and the amount of the loan from time to time outstanding;

"loans administrator" means any person or body for the time being exercising functions in relation to loans under arrangements made with the Department pursuant to paragraph 3 of Schedule 2 to the Order;

"periods of work experience" means periods of industrial, professional or commercial experience associated with full-time study at an institution but at a place outside the institution;

"the Order" means the Education (Student Loans) (Northern Ireland) Order 1990;

"refugee" means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**a**) as extended by the Protocol thereto which entered into force on 4th October 1967(**b**) and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

"sandwich course" means a course consisting of alternate periods of full-time study in an institution and periods of work experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period; and

(2) For the purposes of these Regulations an academic year which begins in the month of July in any year shall be deemed to begin in the month of August immediately following that month.

PART II

ELIGIBILITY FOR LOANS

Conditions of eligibility

4.—(1) A student attending a course of higher education of at least one academic year's duration shall be eligible for a loan in relation to an academic year which begins on or after 1st August 1994 if—

(*a*) his course of study during that academic year forms part or all of—

(a) Cmnd. 9171
(b) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Student Support Branch, Department of Education, Rathgael House, Balloo Road, Bangor, Co Down BT19 7PR)

(i) a full-time course; or

(ii) a course (whether or not full-time) for the initial training of teachers for the time being so designated; and

(*b*) (i) he satisfies the conditions prescribed in the Schedule; or

(ii) before the commencement of or at any time during that academic year he has been recognised as a refugee and from that time he has been ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man, or is the spouse or child of such a person; and

(*c*) the loans administrator has received the certified eligibility form referred to in regulation 13(2)(*g*) or (3)(*d*) in connection with his application for the loan; and

(*d*) he has agreed with the loans administrator to notify the latter promptly in writing if he ceases to attend his course—

(i) because he has completed it on a date earlier than that specified by him in the eligibility form referred to in regulation 13(2)(*d*) and (3)(*a*); or

(ii) otherwise than because he has completed it; and

(*e*) he has agreed with the loans administrator to accept payment of the loan by direct credit to his bank or building society account and has provided the loans administrator with a signed direct debiting instruction in favour of the loans administrator in respect of repayments of the loan from that account; and

(*f*) he has entered into an agreement for the loan not later than the end of the period of 12 months beginning on 1st August in which that academic year begins; and

(*g*) he is not a person to whom paragraph (2) applies.

(2) This paragraph applies to a person who—

(*a*) before the date on which the course begins has attained the age of fifty years; or

(*b*) is attending a course leading to registration on Part 12, 13, 14 or 15 of the register maintained by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting under section 10 of the Nurses, Midwives and Health Visitors Act 1979(**a**) and is eligible to receive payment of a bursary or salary out of funds paid by the Secretary of State under section 97 of the National Health Service Act 1977(**b**) or section 85(1) of the National Health Service (Scotland) Act 1978(**c**) or by the Department of Health and Social Services(**d**) under Acticle 87 of the Health and Personal Social Services (Northern Ireland) Order 1972(**e**); or

---

(**a**) 1979 c. 36
(**b**) 1977 c. 49: substituted by section 6 of the Health Services Act 1980 (c. 53)
(**c**) 1978 c. 29: substituted by section 6 of the Health Services Act 1980 (c. 53)
(**d**) *See* the definition of "Ministry" as read with paragraph 8(1) of Schedule 5 to the Northern Ireland Constitution Act 1973 (c. 36)
(**e**) S.I. 1972/1265 (N.I. 14)

(*c*) is studying for the Postgraduate Certificate in Education as a participant in arrangements made by a local education authority in England or Wales for the training of teachers known as the "Articled Teachers Scheme"; or

(*d*) is in breach of any obligation contained in any agreement for a loan; or

(*e*) was under the age of 18 when any agreement for a loan was made with him and who has not ratified that agreement after attaining that age.

(3) A student shall not be eligible for a loan in relation to more than one academic year or more than one course beginning in any period of twelve months beginning on 1st August in any year.

PART III

DESIGNATION OF COURSES

Designation of courses by the Department

5. For the purposes of Article 3 of the Order the Department may designate courses of higher education at institutions other than institutions receiving support from public funds.

PART IV

LOANS: PRINCIPAL, INTEREST AND REPAYMENTS

Amounts of loans

6.—(1) Subject to paragraphs (3) to (5), in the case of a student attending a course at the University of London or at any institution within the area comprising the City of London and the metropolitan police district, the maximum amount of the loan in relation to any academic year shall be—

(*a*) where the year is the final year of the course, £670 where he resides at his parents' home, and £1,005 where he does not so reside; and

(*b*) in any other case, £915 where he resides at his parents' home, and £1,375 where he does not so reside.

(2) Subject to paragraphs (3) to (5), in the case of any student attending a course other than a course mentioned in paragraph (1) the maximum amount of the loan in relation to any academic year shall be—

(*a*) where the year is the final year of the course, £670 where he resides at his parents' home, and £840 where he does not so reside; and

(*b*) in any other case, £915 where he resides at his parents' home, and £1,150 where he does not so reside.

(3) Where a student's course includes a period of residence in a country other than the United Kingdom throughout an academic year, the maximum amount of the loan in relation to that academic year shall be £840 where the year is the final year of the course and £1,150 if it is not.

(4) Where a student's course is an accelerated course, paragraph (1)(*a*) shall have effect as if for £670 and £1,005 there were substituted £915 and

£1,375, respectively and paragraph (2)(*a*) shall have effect as if for £670 and £840 there were substituted £915 and £1,150, respectively.

(5) For the purposes of paragraphs (1) to (3), where a course for the Postgraduate Certificate in Education, the Art Teacher's Certificate or the Art Teacher's Diploma (or for a qualification comparable with any such certificate or diploma) is of only one academic year's duration that year shall not be treated as a final year, and for the purposes of paragraphs (1) and (2) a student's place of residence is his place of residence on the date a certificate is given in respect of him pursuant to regulation 13.

Interest

7.—(1) Notwithstanding the revocation of the Education (Student Loans) Regulations (Northern Ireland) 1993 loans shall bear interest in respect of the periods consisting of the month of August 1994 at the rate specified in regulation 7 of those Regulations.

(2) Loans shall bear interest in respect of any period commencing on or after 1st September 1994 at the rate specified in paragraphs (3) and (4), being the rate appearing to the Department to be requisite for maintaining the value of the loans in real terms.

(3) That rate is the rate of interest per day which, in relation to a loan made on or after 1st September 1994, taking account of the addition of interest to the outstanding amount of the loan in accordance with regulation 8, will result in an annual percentage rate of charge determined in accordance with the Consumer Credit (Total Charge for Credit) Regulations 1980(**a**) which is equal to the percentage specified in paragraph (4).

(4) That percentage is the percentage increase between the retail prices index published by the Central Statistical Office for March 1993 and the retail prices index so published for March 1994.

Time and manner of repayments

8.—(1) Subject to paragraph (2) and regulations 9 to 12 a borrower shall commence repayment of his loan on such day in the month of April next following the date on which he ceased to attend the course as the loans administrator may determine in his case (referred to in this regulation as "the determined date").

(2) Where a borrower ceases to attend his course without completing it and on the first day thereafter on which it is reasonably practicable for him to do so begins to attend at the same institution another course which satisfies the requirements of regulation 4(1), paragraph (1) shall apply only in relation to the latter course.

(3) Subject to regulations 9 to 12 repayments shall be made in 60 monthly instalments calculated in accordance with paragraphs (6) to (8) in the case of a borrower who has received a loan in relation to less than five academic years and in 84 such instalments calculated as aforesaid in all other cases.

(**a**) S.I. 1980/51; amended by S.I. 1985/1192 and 1989/596

(4) Interest accrued on a loan shall be added to the loan at regular monthly intervals and thenceforth form part of the outstanding amount of the loan.

(5) On or before the determined date falls, the amount of the monthly repayments shall be calculated in accordance with paragraph (6).

(6) The amount of the loan outstanding on the first day of the month in which the determined date falls and of interest which will accrue during the period of repayment shall be divided by the number of repayments, and the amount so calculated shall be the amount of the monthly repayment until it is re-calculated in accordance with paragraph (7).

(7) On 1st September next following the determined date, and on each subsequent 1st September until the loan has been repaid or cancelled, the amount of the loan outstanding on that date and of interest which will accrue during the remaining period of repayment shall be divided by the number of repayments still to be made and the amount so calculated shall be the amount of the monthly repayment.

(8) For the purposes of calculating monthly repayments under paragraphs (6) and (7)—

(*a*) no account shall be taken of any repayments due prior to the relevant date which have not been made, but account shall be taken of the amounts of interest which have accrued on such unpaid repayments; and

(*b*) it shall be assumed that—

(i) the rate of interest will not change during the period of repayment; and

(ii) each repayment will be applied to reduce the amount of the loan immediately after the addition of interest in accordance with paragraph (4).

(9) Repayments shall be made by direct debit from the borrower's bank or building society account unless the loans administrator agrees otherwise.

(10) Nothing in this regulation shall be taken to prevent a borrower, after giving notice to the loans administrator, from discharging or with the agreement of the loans administrator reducing his liability in respect of his loan sooner than required by the regulation, and where a borrower wishes so to reduce his liability the amount and time of repayments shall be determined by the loans administrator and the provisions of this regulation (except paragraphs (4) and (9)) shall no longer apply to the loan.

Discretion of loans administrator

9. Notwithstanding the provisions of regulation 8, the loans administrator may, in the case of a borrower who is in breach of an obligation to repay any loan instalment, do either or both of the following, namely:

(*a*) grant any relaxation or indulgence to the borrower which does not vary the agreement for the loan;

(*b*) require the borrower to make an immediate repayment of the outstanding amount of the loan;

provided that the loans administrator shall not grant any relaxation or indulgence in accordance with paragraph (*a*) unless it is satisfied that such action represents a more effective means of recovering the debt due under the agreement than instituting legal proceedings against the borrower.

Repayment by disabled borrowers

10.—(1) In the case of a borrower receiving any disability-related benefit at the beginning of or at any time during the period of repayment determined in accordance with regulation 8, the loans administrator may do all or any of the following, namely:

(*a*) allow the borrower to commence repayment of the loan, at such date later than that provided by regulation 8 as the loans administrator considers appropriate; or

(*b*) allow the borrower to defer making repayments of the loan until such later date; or

(*c*) allow the borrower to make repayments of the loan in such greater number of instalments of such lesser amounts than those provided by regulation 8 as the loans administrator considers appropriate:

but interest on the loan shall continue to accrue and to be added to the outstanding amount of the loan during any period in which repayments are not being made or during any extended period of repayment.

(2) The loans administrator may exercise any discretion conferred on it by paragraph (1) notwithstanding that the outstanding amount of the loan will not in consequence be fully repaid before the borower's liability in respect thereof is cancelled by virtue of paragraphs (1)(*b*) and (2) of regulation 12.

Deferment

11.—(1) Subject to the provisions of this regulation, a borrower shall be entitled to defer making repayments of his loan if he satisfies the loans administrator—

(*a*) that his gross income for the month preceding the month in which he applies for deferment does not exceed the product of £1,216 and the annual adjustment; and

(*b*) if the loans administrator so requires, that his gross average monthly income during the three months immediately following the month referred to in sub-paragraph (*a*) will not or is unlikely to exceed that amount.

(2) For the purposes of paragraph (1) "the annual adjustment" means the average earnings index for March 1994 divided by the average earnings index for March 1993; and "the average earnings index" means the general index of average earnings (for all employees: whole economy: seasonally adjusted) published by the Department of Employment or, if that index is not published for a month for which it is relevant for the purposes of this regulation, any substituted index or index figures published by that Department.

(3) If a borrower falls within paragraph (1), he shall not be obliged to make repayments during a period of twelve months beginning with such date

as may be determined by the loans administrator, being a date not more than twelve months earlier or two months later than the date on which the loans administrator notifies the borrower that it is satisfied that he is entitled to defer making repayments.

(4) Notwithstanding deferment a borrower may, after giving notice to the loans administrator, resume making repayments at any time before the end of the period of deferment.

(5) In determining whether a borrower's gross monthly income exceeds, will exceed or is likely to exceed the amount specified in paragraph (1) no account shall be taken of any disability-related benefits paid or which will or are likely to be paid to him in the months in question.

(6) Interest shall accrue on a loan and shall be added to the outstanding amount thereof during any period of deferment.

Cancellation

12.—(1) A borrower's liability to make repayments in respect of all loans shall be cancelled if—

(*a*) he dies; or

(*b*) he is a person to whom paragraph (2) applies.

(2) This paragraph applies to a borrower who is not in breach of any obligation in relation to any loan and—

(*a*) if he was aged less than forty when he last entered into an agreement for a loan, if he attains the age of fifty or if the loan for which he last entered into an agreement has been outstanding for not less than twenty-five years (whichever event is the sooner); or

(*b*) if he was aged not less than forty when he last entered into an agreement for a loan, if he attains the age of sixty.

PART V

HIGHER EDUCATION INSTITUTIONS: DUTIES

Duties of governing bodies in relation to loans

13.—(1) This regulation prescribes the steps to be taken by the governing body of each institution at which eligible students are attending courses for the purposes of, or in connection with, applications for loans.

(2) The governing body shall as soon as practicable after the commencement of each academic year—

(*a*) issue to any student who requests them to certify his eligibility for a loan an eligibility questionnaire provided by the loans administrator;

(*b*) in respect of each eligibility questionnaire completed by a student and returned to them, take such steps as are reasonably practicable to verify the particulars inserted in the questionnaire by the student relating to his eligibility for a loan;

(*c*) if the student's eligibility cannot be determined solely by verifying the particulars on the questionnaire, take such other steps as are reasonably practicable for that purpose;

(*d*) issue to each student in relation to whom they have taken the steps required by sub-paragraphs (*a*) to (*c*) and whom they consider to be eligible an eligibility form provided by the loans administrator for completion by the student and return to them;

(*e*) certify to the best of their knowledge and belief the accuracy of the particulars in each completed eligibility form and the amount of loan to which they consider the student to be entitled;

(*f*) issue to each student in relation to whom they have taken all other steps required by sub-paragraphs (*a*) to (*e*) a loan application form provided by the loans administrator; and

(*g*) send each certified eligibility form to the loans administrator.

(3) Where a student is a borrower who has obtained an eligibility form from the loans administrator and completed it the governing body shall as soon as practicable after the commencement of each academic year—

(*a*) accept the completed eligibility form from any such student who requests them to certify his eligibility;

(*b*) if the loans administrator has requested that any of the particulars inserted in the form should be verified take such steps as are reasonably practicable to verify those particulars;

(*c*) certify to the best of their knowledge and belief the accuracy of the particulars which the loans administrator has requested them to verify and the amount of loan to which they consider the student to be entitled; and

(*d*) send each certified eligibility form to the loans administrator.

(4) The governing body shall—

(*a*) promptly notify the loans administrator in writing if a person in respect of whom they have certified eligibility (whether under these Regulations or otherwise) ceases to be an eligible student during the academic year in which they certified eligibility or subsequently—

(i) because he has completed the course on a date earlier than that specified in the certified eligibility form referred to in paragraph (2)(*g*) or (3)(*d*) or notified by them to the loans administrator as the expected date on which he will complete the course; or

(ii) otherwise than because he has completed the course;

(*b*) keep records and copies of all documents except loan application forms which they are required by this regulation to issue or certify and a record of any steps taken by them to establish a student's eligibility;

(*c*) permit the loans administrator or the Department to inspect the records and copies at any reasonable time and provide them with reasonable facilities for that purpose;

(*d*) acknowledge receipt of all eligibility and application forms received by them from the loans administrator and provide to it on request brief particulars of such forms which they have issued; and

(*e*) as soon as practicable notify the loans administrator in writing if they believe that a person has fraudulently obtained or attempted to obtain a loan and provide the administrator with the name of the person (if known) and particulars of the circumstances of that person's obtaining or attempting to obtain the loan.

(5) Without prejudice to the generality of paragraph (2)(*b*) and (*c*) and 3(*b*), the steps to be taken under those sub-paragraphs shall include verifying particulars given in the eligibility questionnaire by reference to—.

(*a*) in the case of a person in respect of whom an entry was made in a register of births kept in pursuance of the Births and Deaths Registration Act 1953(**a**) and the Registration Service Act 1953(**b**) a certified copy of that entry;

(*b*) in the case of a person in respect of whom an entry was made in the Adopted Children Register kept in pursuance of section 50 of the Adoption Act 1976(**c**) which contains a record of the date of the birth of the person, a certified copy of that entry;

(*c*) in the case of a person in respect of whom an entry was made in a register of births kept in pursuance of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(**d**), an extract of, or an abbreviated certificate of birth relating to, that entry;

(*d*) in the case of a person in respect of whom an entry was made in the Adopted Children Register kept in pursuance of section 45 of the Adoption (Scotland) Act 1978(**e**) which contains a record of the date of birth of the person, an extract of that entry; or

(*e*) in the case of a person in respect of whom an entry was made in a register of births kept in pursuance of the Births and Deaths Registration (Northern Ireland) Order 1976(**f**), a certified copy of that entry;

(*f*) in the case of a person in respect of whom an entry was made in the Adopted Children Register kept in pursuance of Article 50 of the Adoption (Northern Ireland) Order 1987(**g**) which contains a record of the date of the birth of the person, a certified copy of that entry; or

(*g*) in the case of any other person except a refugee, his passport (if he holds one), and a letter or other document issued by a responsible person which contains particulars of his date, place and country of birth and his names at birth.

(**a**) 1953 c. 20
(**b**) 1953 c. 37
(**c**) 1976 c. 36
(**d**) 1965 c. 49
(**e**) 1978 c. 28
(**f**) S.I. 1976/1041 (N.I. 14)
(**g**) S.I. 1987/2203 (N.I. 22)

(6) Nothing in this regulation shall require the governing body to take any steps to establish whether a student falls within sub-paragraph (1)(*c*) to (*f*), or (2)(*d*) or (*e*) of regulation 4 (receipt of certified eligibility form, agreement to notify cessation of attendance, direct credit and debit agreement, date of loan agreement, breach of loan agreement and minor's failure to ratify loan agreement), and in considering whether a student is eligible the governing body shall disregard those sub-paragraphs.

(7) In this regulation—

"eligibility form" means a form requesting particulars from a student relevant to his eligibility for a loan and of his bank or building society account; and

"responsible person" means a consular officer, minister of religion, medical or legal practitioner, established civil servant, teacher or police officer.

Sealed with the Official Seal of the Department of Education on 21st June 1994.

(L.S.) *J. A. Mills (Miss)*
Assistant Secretary

SCHEDULE Regulation 4(1)(*b*)(i)

Conditions of eligibility

1. The conditions prescribed for the purposes of regulation 4(1)(*b*)(i) are that, subject to paragraphs 3 and 4, the student—

(*a*) is on the relevant date ordinarily resident in Northern Ireland for the purposes of the Students Awards Regulations(**a**) for the time being in force, made under Articles 50(1) and (2) and 134(1) of the Education and Libraries (Northern Ireland) Order 1986(**b**);

(*b*) throughout the three years preceding the relevant date has been ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man or, in the case of such a person as is mentioned in paragraph 2, has been so resident in the European Economic Area; and

(*c*) has not during any part of the said three year period been resident in the United Kingdom, the Channel Islands or the Isle of Man or, in the case of such a person as is mentioned in paragraph 2, the European Economic Area wholly or mainly for the purpose of receiving full-time education.

2. The person referred to in paragraph 1(*b*) and (*c*) is a person to whom Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on the freedom of movement for workers within the Community(**c**) as given effect by the EEA Agreement applies.

3. A person shall be treated for the purposes of paragraph 1 as ordinarily resident in Northern Ireland, in the United Kingdom, the Channel Islands or the Isle of Man, or in the European Economic Area if he would have been so resident but for the fact that he, his spouse or his parent, guardian or any other person having actual custody of him during his minority, is, or was, temporarily employed outside Northern Ireland, outside the United Kingdom, the Channel Islands or the Isle of Man or, as the case may be, outside the European Economic Area and paragraph 1(*c*) shall not apply in the case of such a person.

4.—(1) A person shall be treated for the purposes of paragraph 1 as having been ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man throughout the three years preceding the relevant date if he is a British citizen within the meaning of the British Nationality Act 1981(**d**) and—

(*a*) he was not so resident only because he was ordinarily resident for the purposes of employment in the European Economic Area during every part of that period in which he was not ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man; or

(*b*) (i) he was not so resident throughout that period only because his parent is such a person as is mentioned in head (*a*); and

(ii) his parent is ordinarily resident in Northern Ireland on the relevant day.

(2) In sub-paragraph (1) "parent" includes a guardian and any other person having actual custody of a minor, and "relevant day" means—

(**a**) The regulations in force on the date these Regulations are made are the Students Awards Regulations (Northern Ireland) 1993 (S.I. 1993/439) and the provision therein corresponding to paragraph 3 of the Schedule to these Regulations is regulation 7(1)

(**b**) S.I. 1993/2810 (N.I. 12)

(**c**) OJ No. L257, 19.10.68, p. 2 (OJ/SE 1968(II) p. 475)

(**d**) 1981 c. 61

(i) where the person had entered the United Kingdom before the day one month earlier than that of the beginning of the term in which he commences his course, that day;

(ii) where he had not so entered the United Kingdom, the day of the beginning of that term.

5. In this Schedule—

"EEA Agreement" means the Agreement on The European Economic Area signed at Oporto on 2nd May 1992(**a**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**b**);

"European Community" means the territory comprised by the member states of the European Economic Community as constituted from time to time and, as respects any period prior to the unification of the Federal Republic of Germany with the former German Democratic Republic, that former Republic;

"European Economic Area" means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and, from such date as the EEA Council, established by Article 89 of the EEA Agreement, determines that that Agreement shall enter into force as regards the Principality of Liechtenstein, the Principality of Liechtenstein; and

"the relevant date" means the first day of the course.

(**a**) Cmnd. 2073
(**b**) Cmnd. 2183

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which revoke and replace the Education (Student Loans) Regulations (Northern Ireland) 1993 come into operation on 1st August 1994.

The changes of substance made by these Regulations, other than in the maximum amounts of loans and rates of interest, are described below.

The increase in the retail price index, which determines the rate of interest charged on loans, is required to be measured from March to March rather than June to June (regulation 7(4)).

It is provided that deferment of a loan may take effect not more than two months after the date on which the loans administrator notifies the borrower of his entitlement to deferment, rather than not more than one month after that date (regulation 11(3)). The definition of disability related benefits which are to be disregarded in determining a borrower's income for the purpose of establishing entitlement to deferment of a loan has been amended (regulation 3(1)). The amendment corrects references to disability premium and severe disability premium, but does not alter the benefits which are to be disregarded in determining a borrower's income.

A new procedure for the certification of eligibility for loans where students have borrowed before is introduced (regulation 13(3)). The loans administrator will on request send an eligibility form containing information about a student directly to him, who will complete the form and submit it to the governing body of the institution he attends. The governing body will verify information which the loans administrator has requested them to verify, and certify that the information is accurate to the best of their knowledge and belief. They will then send the certified eligibility form to the loans administrator. The student will receive an application form directly from the loans administrator, and make his application directly to it.

Provision is made to reflect the fact that under the European Economic Area Agreement nationals of countries within the European Economic Area in addition to nationals of countries within the European Community are by the time these Regulations come into force expected to have rights arising under Council Regulation (EEC) 1612/68. In accordance with Article 7(2) or (3) or 12 of that Regulation they may be entitled to loans under these Regulations.