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STATUTORY INSTRUMENTS

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**2018 No. 137**

**The Education (Student Fees, Awards and Support) (Amendment) Regulations 2018**

**PART 2**

**AMENDMENT OF THE EDUCATION  
(STUDENT SUPPORT) REGULATIONS 2011**

**Amendment of the Education (Student Support) Regulations 2011**

**2.** The Education (Student Support) Regulations 2011(1) are amended in accordance with regulations 3 to 9.

**Amendments relating to support available to members of the armed forces and their families and dependants**

**3.—(1)** In regulation 13(2) (miscellaneous), after paragraph (6), insert—

“(6A) For the purposes of paragraph (6), a person (“A”) is to be treated as being ordinarily resident in England for any period during which A would have been so resident but for the fact that—

- (a) A,
- (b) A’s spouse or civil partner,
- (c) A’s parent, or
- (d) in the case of a dependent direct relative in the ascending line, A’s child or child’s spouse or civil partner,

is or was temporarily employed in Wales, Scotland or Northern Ireland as a member of the regular naval, military or air forces of the Crown.”.

**(2)** In regulation 40(3) (qualifying conditions for the disabled students’ allowance), after paragraph (2), insert—

“(2A) For the purposes of paragraph (2), a person (“A”) is to be treated as being ordinarily resident in England for any period during which A would have been so resident but for the fact that—

- (a) A,
- (b) A’s spouse or civil partner,
- (c) A’s parent, or

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(1) S.I. 2011/1986, amended by S.I. 2012/1653, 2013/235, 2013/630, 2013/1728, 2013/3106, 2014/1766, 2014/2103, 2014/2765, 2015/1951, 2016/211, 2016/270, 2016/584, 2017/52, 2017/114, 2017/204 and S.I. 2018/136.  
(2) Regulation 13 was amended by S.I. 2012/1653, 2014/2765, 2017/114 and 2018/136.  
(3) Regulation 40 was substituted by S.I. 2014/2765.

(d) in the case of a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,

is or was temporarily employed in Wales, Scotland or Northern Ireland as a member of the regular naval, military or air forces of the Crown.”.

(3) In regulation 144(4) (fee support for designated part-time courses beginning on or after 1st September 2012), after paragraph (3), insert—

“(3ZA) For the purposes of paragraph (3)(b), a person (“A”) is to be treated as being ordinarily resident in England for any period during which A would have been so resident but for the fact that—

(a) A,

(b) A's spouse or civil partner,

(c) A's parent, or

(d) in the case of a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,

is or was temporarily employed in Wales, Scotland or Northern Ireland as a member of the regular naval, military or air forces of the Crown.”.

#### **Amendments relating to availability of support to students with previous study**

4.—(1) In regulation 19(5) (availability of fee loans to current system students – general)—

(a) in paragraph (3A), for “(3D)”, substitute “(3E)”;

(b) for paragraph (3D), substitute—

“(3D) Paragraphs (3B) and (3C) do not apply if the Secretary of State considers that there are exceptional circumstances.”;

(c) after paragraph (3D), insert—

“(3E) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for a fee loan in respect of one or more academic years of the current course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.”;

(d) in paragraph (9A), for “(9D)”, substitute “(9E)”;

(e) for paragraph (9D), substitute—

“(9D) Paragraphs (9B) and (9C) do not apply if the Secretary of State considers that there are exceptional circumstances.”;

(f) after paragraph (9D), insert—

“(9E) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for a fee loan in respect of one or more academic years of the current course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.”.

(2) In regulation 69(6) (qualifying conditions for the loan for living costs – current system students)—

(a) in paragraph (2B), for “(2E)”, substitute “(2F)”;

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(4) Regulation 144 was amended by [S.I. 2012/1653](#), [2014/2765](#) and [2017/114](#).

(5) Regulation 19 was amended by [S.I. 2013/1728](#), [2014/2765](#), [2015/1951](#) and [2017/114](#).

(6) Regulation 69 was amended by [S.I. 2013/1728](#), [2014/2765](#), [2015/1951](#), [2016/270](#), [2017/114](#) and [2018/136](#).

- (b) for paragraph (2E), substitute—  
“(2E) Paragraphs (2C) and (2D) do not apply if the Secretary of State considers that there are exceptional circumstances.”;
- (c) after paragraph (2E), insert—  
“(2F) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for a loan for living costs in respect of one or more academic years of the current course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.”.
- (3) In regulation 141(7) (assistance for part-time courses in respect of courses beginning before 1st September 2012)—
- (a) in paragraph (9), for “(12)”, substitute “(12A)”;
- (b) for paragraph (12), substitute—  
“(12) Paragraphs (10) and (11) do not apply if the Secretary of State considers that there are exceptional circumstances.”;
- (c) after paragraph (12), insert—  
“(12A) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for support under this regulation in respect of one or more academic years of the current part-time course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.”.
- (4) In regulation 144 (fee support for designated part-time courses beginning on or after 1st September 2012)—
- (a) in paragraph (9), for “(12)”, substitute “(12A)”;
- (b) for paragraph (12), substitute—  
“(12) Paragraphs (10) and (11) do not apply if the Secretary of State considers that there are exceptional circumstances.”;
- (c) after paragraph (12), insert—  
“(12A) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for support under this regulation in respect of one or more academic years of the current part-time course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.”.

### **Amendments relating to new payment rates for student support**

- 5.—(1) In regulation 23(6A)(b)(8) and (6B)(b)(9) (amount of the fee loan)—
- (a) omit “or Wales”;
- (b) for “, (4A), (5ZA) or (5ZB)”, substitute “or (4A)”.
- (2) Schedule 1 to these Regulations has effect to substitute the figure in the third column of the table for the figure in the second column where that figure appears in the provision of the Education (Student Support) Regulations 2011 set out in the first column.

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(7) Regulation 141 was amended by [S.I. 2012/1653](#), [2014/2765](#) and [2017/114](#).

(8) Paragraph (6A) of regulation 23 was inserted by [S.I. 2013/1728](#) and sub-paragraph (b) of that paragraph was subsequently amended by [S.I. 2017/114](#).

(9) Paragraph (6B) of regulation 23 was inserted by [S.I. 2013/1728](#) and sub-paragraph (b) of that paragraph was subsequently amended by [S.I. 2017/114](#).

## Amendments relating to designated distance learning courses

- 6.—(1) In regulation 2(1) (interpretation)—
- (a) omit the following definitions—
    - (i) “current distance learning course”;
    - (ii) “designated distance learning course”;
    - (iii) “eligible distance learning student”;
  - (b) in the definition of “end-on course”(10)—
    - (i) in paragraph (d), omit “or designated distance learning course”;
    - (ii) in paragraph (f), omit from “a designated” to “Schedule 2 or”;
  - (c) in the definition of “period of eligibility”, omit “in regulation 123 in relation to an eligible distance learning student.”.
- (2) In regulation 4(11) (eligible students)—
- (a) omit paragraph (7)(b);
  - (b) in paragraphs (12)(a)(i) and (13)(a)(i), omit—
    - (i) “, designated distance learning course”;
    - (ii) “, eligible distance learning student”.
- (3) In regulation 5(12) (designated courses)—
- (a) in the opening words of paragraph (1), omit “(3),”;
  - (b) in paragraph (1)(b)(i), omit “subject to paragraph (3),”;
  - (c) omit paragraphs (3) and (3A).
- (4) In regulation 12(1)(13) (previous course), in sub-paragraphs (a) and (b)(iii), for “a designated”, substitute “a full-time”.
- (5) Omit Part 10 (support for designated distance learning courses).
- (6) In regulation 137(14) (eligible part-time students)—
- (a) in paragraphs (10)(a) and (11)(a)—
    - (i) omit “, designated distance learning course”;
    - (ii) for “, eligible student or eligible distance learning student”, substitute “or eligible student”;
  - (b) omit paragraph (13)(c).
- (7) In regulation 139(1)(15) (designated part-time courses)—
- (a) at the end of sub-paragraph (e), insert “and”;
  - (b) omit sub-paragraph (g) and the “and” before it.
- (8) In regulation 152 (conversion of status), omit paragraphs (5) to (11) and (14) to (18).
- (9) In regulation 159(18) (eligible postgraduate students), omit sub-paragraph (b).
- (10) In Schedule 1(16) (eligible students), in Part 2 (categories), in paragraph 9(1)(b)(i), omit “or designated distance learning course”.

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(10) The definition of “end-on course” was amended by [S.I. 2012/1653](#) and [2015/1951](#).

(11) Regulation 4 was amended by [S.I. 2015/1951](#), [2017/114](#) and [2018/136](#).

(12) Regulation 5 was amended by [S.I. 2013/1728](#), [2013/3106](#), [2014/2765](#), [2015/1951](#), [2017/114](#) and [2018/136](#).

(13) Regulation 12(1) was amended by [S.I. 2014/2765](#).

(14) Regulation 137 was amended by [S.I. 2015/1951](#) and [2017/114](#).

(15) Regulation 139(1) was amended by [S.I. 2014/2765](#).

(16) Schedule 1 was amended by [S.I. 2012/1653](#), [2016/270](#), [2016/584](#) and [2017/114](#).

## **Amendments relating to support available to persons granted stateless leave and their families**

7.—(1) In regulation 2(1) (interpretation), after the definition of “person granted humanitarian protection”, insert—

““person granted stateless leave” means a person who—

- (a) has extant leave to remain as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971<sup>(17)</sup>); and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”.

(2) In regulation 4 (eligible students), after paragraph (12), insert—

“(12A) Where—

- (a) the Secretary of State determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of a person granted stateless leave, a person (“A”) was an eligible student in connection with—
  - (i) an application for support for an earlier year of the current course,
  - (ii) an application for support for a course in relation to which the current course is an end-on course, or
  - (iii) an application for support in connection with a designated part-time course or other designated course from which A’s status as an eligible part-time student or eligible student has been transferred to the current 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 granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted, A’s status as an eligible student terminates immediately before the first day of the academic year in respect of which A is applying for support.”.

(3) In regulation 17(b) (events), after “becomes”, insert “a person granted stateless leave or”.

(4) In regulation 85(2)(b) (students becoming eligible in the course of an academic year), after “becomes”, insert “a person granted stateless leave or”.

(5) In regulation 137 (eligible part-time students), after paragraph (10), insert—

“(10A) Where—

- (a) the Secretary of State determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of a person granted stateless leave, a person (“A”) was an eligible part-time student in connection with—
  - (i) an application for support for an earlier year of the current part-time course, or
  - (ii) an application for support in connection with a designated part-time course or other designated course from which A’s status as an eligible part-time student or eligible student has been transferred to the current part-time 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 granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted, A’s status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.”.

(6) In regulation 138(4)(b) (students becoming eligible during the course of the academic year), after “becomes”, insert “a person granted stateless leave or”.

(7) In regulation 159(18) (eligible postgraduate students), after paragraph (15), insert—

“(15A) Where—

(a) the Secretary of State determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of a person granted stateless leave, a person (“A”) was an eligible postgraduate student in connection with—

(i) an application for support for an earlier year of the current postgraduate course, or

(ii) 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 period for which the person granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted,

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.”.

(8) In regulation 160(2)(b) (students becoming eligible in the course of an academic year), after “becomes”, insert “a person granted stateless leave or”.

(9) In Schedule 1 (eligible students), in Part 2 (categories), after paragraph 4, insert—

**“Persons granted stateless leave and their family members**

**4A.—**(1) A person granted stateless leave who—

(a) is ordinarily resident in England on the first day of the first academic year of the course; and

(b) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(2) A person—

(a) who—

(i) is the spouse or civil partner of a person granted stateless leave; and

(ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;

(b) who is ordinarily resident in England on the first day of the first academic year of the course; and

(c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(3) A person—

(a) who—

(i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and

(ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;

- (b) who was under 18 on the leave application date;
- (c) who is ordinarily resident in England on the first day of the first academic year of the course; and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971).”.

#### **Amendments relating to institutions listed in Schedule 5**

**8.** For Schedule 5(19) (institutions to whom regulations 23(4A) and 145(2)(c) apply), substitute the Schedule set out in Schedule 2 to these Regulations.

#### **Amendment relating to the definition of “end-on course”**

**9.** In regulation 2(1) (interpretation), in the definition of “end-on course”, omit paragraph (c).