

2022 No. 183

EDUCATION

**The Further Education (Student Support) (Eligibility)
(Amendment etc.) Regulations (Northern Ireland) 2022**

Made - - - - - *20th June 2022*

Coming into operation - *1st August 2022*

The Department for the Economy^(a) in exercise of the powers conferred by Articles 3(1), 3(2) and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998^(b) makes the following Regulations.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Further Education (Student Support) (Eligibility) (Amendment etc.) Regulations (Northern Ireland) 2022 and shall come into operation on 1st August 2022.

(2) These Regulations apply in relation to the provision of support to a student in relation to an academic year which begins on or after 1st August 2022, whether or not anything done under these Regulations is done before, on, or after that date.

(3) In paragraph (2), an “academic year” is the period of twelve months beginning with 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins, according to whether the academic year of the course in question begins—

- (a) on or after 1st January and before 1st April;
- (b) on or after 1st April and before 1st July;

(a) Formerly the Department for Employment and Learning; see Article 6(1)(c) of the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76).

(b) S.I. 1998/1760 (N.I. 14). Article 3 was amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b), the Student Loans (Amendment) Act (Northern Ireland) 2011, (c.2 (N.I.)), s.1(1), the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, the Finance Act 2003, (c.14), s. 147(4), the Higher Education (Northern Ireland) Order 2005, (S.I. 2005/1116 (N.I. 5)), Articles 11 and 12 and the Schedule, the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, (S.I. 2013/1881), Schedule 1, the Education Act (Northern Ireland) 2014 (c.12) Schedule 3 and by the Higher Education and Research Act 2017 (c.29) section 87. Article 5(b) and Part II of Schedule 3 to the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481) transferred functions under the Education (Student Support) (Northern Ireland) Order 1998 from the Department of Education to the Department of Higher and Further Education, Training and Employment. The Department of Higher and Further Education, Training and Employment was renamed the Department for Employment and Learning by 2001 c.15 (N.I.), section 1, and following the dissolution of that department by the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)), section 1(10), its functions under the Education (Student Support) (Northern Ireland) Order 1998 were transferred to the Department for the Economy by S.R. 2016 No. 76, Article 6(1)(c).

- (c) on or after 1st July and before 1st August; or
- (d) on or after 1st August and on or before 31st December.

PART 2

Amendment of the Schedule to the Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012

CHAPTER 1

Citizens' Rights Amendments

2. In paragraph 1(1) (interpretation)—

- (1) omit the definition of “grace period”;
- (2) in the definition of “person with protected rights”(a)—
 - (a) re-number the existing text after “means—” as sub-paragraph (1) of the definition;
 - (b) in that sub-paragraph as so numbered, omit head (a)(iii);
 - (c) after head (a)(iv) insert—
 - “(v) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;
 - (d) after sub-paragraph (1), insert—
 - “(2) In sub-paragraph (1)(a)(v) “citizens’ rights deeming provisions” means—
 - (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
 - (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
 - (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

3. In paragraph 2A, for “the first day of the first academic year of the course”, in each case substitute “the day on which the first term of the first academic year actually begins”.

4. In paragraph 2B(1)(a)(iv)—

- (i) in paragraph (bb), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in sub-paragraph (3)”,
- (ii) in paragraph (cc), after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,
- (iii) after sub-paragraph (2) insert—
 - “(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens’ rights provisions referred to are—
 - (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;
 - (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
 - (c) Article 16(3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

(a) Definition inserted by S.R. 2021 No. 202

5. In paragraph 6C(1)(a)—

- (i) omit the terminal “and” in sub-paragraph (c);
- (ii) omit the “.” at the end of sub-paragraph (d) and insert “; and”.

CHAPTER 2

Amendments relating to eligibility of Afghan locally employed staff and relocated Afghan citizens

6. —In paragraph 1 (interpretation) at the appropriate place in the alphabetical order, insert –

““person granted leave under one of the Afghan Schemes” means a person granted leave under the Afghan Citizens Resettlement Scheme or a person granted leave under the Afghan Relocations and Assistance Policy Scheme;

“person granted leave under the Afghan Citizens Resettlement Scheme” means a person—

(a) who has—

- (i) indefinite leave to enter or remain in the United Kingdom, outside the Immigration Rules as defined in section 33(1) of the Immigration Act 1971 on the basis of the Afghan Citizens Resettlement Scheme; or
- (ii) indefinite leave to enter or remain in the United Kingdom, outside those rules, as the spouse, civil partner or dependent child of such a person, or dependent child of the spouse or civil partner; and

(b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”

“person granted leave under the Afghan Relocations and Assistance Policy Scheme” means a person—

(a) who has—

- (i) indefinite leave to enter the United Kingdom under paragraph 276BA2, or has indefinite leave to remain under paragraph 276BS2 of the Immigration Rules, having been relocated to the United Kingdom pursuant to paragraph 276BB1(iii)(a) of the Immigration Rules as defined in section 33(1) of the Immigration Act 1971;
- (ii) leave to enter the United Kingdom on the basis of the Afghan Relocations and Assistance Policy Scheme;
- (iii) indefinite leave to enter or remain, outside those rules, on the basis of the Afghan Relocations and Assistance Policy Scheme; or
- (iv) leave to enter or indefinite leave to enter the United Kingdom as the spouse, civil partner or dependent child of such a person, or dependent child of the spouse or civil partner, having been granted that leave under paragraph 276BJ2 or 276BO2 of those rules; and (b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”.

Insertion of paragraph 3G

7. After paragraph 3F, insert—

“Persons granted leave under one of the Afghan Schemes

3G. A person granted leave under one of the Afghan Schemes who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.”.

(a) Paragraph 6C was inserted by S.R. 2021 No. 202

CHAPTER 3

Amendments relating to eligibility of Evacuated or assisted British nationals from Afghanistan

8. In paragraph 1(interpretation) —

- (a) in paragraph 1(1), after the definition of “European Economic Area”, insert—
- ““evacuated or assisted British national from Afghanistan” means a person—
- (a) who is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a British subject under the British Nationality Act 1981 or a British protected person within the meaning of that Act;
- (b) who was either—
- (i) evacuated from Afghanistan by or on behalf of the United Kingdom, a North Atlantic Treaty Organisation member state, Pakistan, Uzbekistan, Tajikistan, Iran or Qatar during the period of the operation known as Operation Pitting, which began on 14th August 2021 and ended on 28th August 2021; or
- (ii) assisted by or on behalf of the United Kingdom, after 28th August 2021 and before 6th January 2022, to leave Afghanistan; and
- (c) who has been ordinarily resident in the United Kingdom and Islands since they were evacuated from or otherwise left Afghanistan;”.

Insertion of paragraph 3H

9. After paragraph 3G, insert —

“Evacuated or assisted British nationals from Afghanistan

3H. An evacuated or assisted British national from Afghanistan who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.”.

CHAPTER 4

Amendments relating to eligibility of Persons coming from Ukraine

Eligibility of persons from Ukraine

10. —In paragraph 1 (interpretation) —

- (a) after the definition of “person granted leave under one of the Afghan Schemes”, insert—
- ““person granted leave under one of the Ukraine Schemes” means a person granted leave under the Homes for Ukraine Sponsorship Scheme, a person granted leave under the Ukraine Extension Scheme or a person granted leave under the Ukraine Family Scheme;”;
- (b) after the definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme”, insert—
- ““person granted leave under the Homes for Ukraine Sponsorship Scheme” means a person—
- (a) who has leave to enter or remain in the United Kingdom—
- (i) under paragraph UKR 19.1 of Appendix Ukraine Scheme of the Immigration Rules as defined in section 33(1) of the Immigration Act 1971; or
- (ii) outside the Immigration Rules as defined in section 33(1) of the Immigration Act 1971 where the person—
- (aa) was residing in Ukraine immediately before 1st January 2022; and
- (bb) left Ukraine in connection with the Russian invasion which took place on 24th February 2022; and

- (b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;
- “person granted leave under the Ukraine Extension Scheme” means a person—
- (a) who has leave to remain in the United Kingdom under paragraph UKR 27.1 of Appendix Ukraine Scheme of the Immigration Rules as defined in section 33(1) of the Immigration Act 1971; and
 - (b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;
- “person granted leave under the Ukraine Family Scheme” means a person—
- (a) who has leave to enter or remain in the United Kingdom—
 - (i) under paragraph UKR 9.1 of Appendix Ukraine Scheme of the Immigration Rules as defined in section 33(1) of the Immigration Act 1971; or
 - (ii) outside the Immigration Rules as defined in section 33(1) of the Immigration Act 1971 where the person—
 - (aa) was residing in Ukraine immediately before 1st January 2022; and
 - (bb) left Ukraine in connection with the Russian invasion which took place on 24th February 2022; and
 - (b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”.

Insertion of paragraph 3I

11. After paragraph 3H, insert —

“Persons granted leave under one of the Ukraine Schemes

31. A person granted leave under one of the Ukraine Schemes, who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.”.

Sealed with the Official Seal of the Department for the Economy on 20th June 2022.



Donna Blaney
A senior officer of the Department for the Economy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012 (S.R. 2012 No.306).

The amendments made by regulations 2 to 5 remove the grace period provisions as the grace period has now ended for the EU Settlement Scheme (EUSS) and further ensure that the Regulations fully reflect the requirements of the EU Withdrawal Agreement (and the EEA EFTA Separation Agreement and Swiss Citizens' Rights Agreement) as they relate to the rights of those making late applications to the EUSS and to joining family members who have yet to apply to the EUSS and are still within the deadline for doing so.

Regulations 6 to 7 amend the 2012 Regulations so that persons granted leave under one of the Afghan Schemes (the Afghan Citizens' Resettlement Scheme or the Afghan Relocations and Assistance Policy Scheme) and their spouse, civil partner or dependent child may qualify for support under each of those rules.

Regulations 8 to 9 amend the 2012 Regulations for new courses which begin on or after 1st August 2022 so that British nationals evacuated or assisted from Afghanistan become eligible for support.

Regulations 10 to 11 amend the 2012 Regulations so that persons under the Ukraine Schemes (Ukraine Sponsorship Scheme, Ukraine Family Scheme and Ukraine Extension Scheme) become eligible for support for new and existing courses from the beginning of academic year 2022/23.

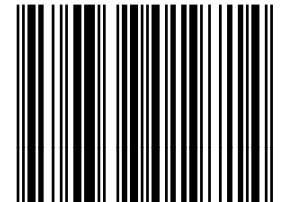
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