

2024 No. 128

EDUCATION

**The Further Education (Student Support) (Eligibility)
(Amendment) Regulations (Northern Ireland) 2024**

Made - - - -

11th June 2024

Coming into operation- -

1st August 2024

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) Regulations (Northern Ireland) 2024 and shall come into operation on 1st August 2024.

(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 2024, 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;
- (c) on or after 1st July and before 1st August; or
- (d) on or after 1st August and on or before 31st December.

(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). 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).

(b) S.I. 1998/1760 (N.I. 14), articles 3(1) and (2) were amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b) respectively.

PART 2

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

CHAPTER 1

Amendments Relating to Family Members of Persons Granted Leave under one of the Afghan Schemes or one of the Ukraine Schemes

2. In Part 1 of the Schedule (eligible students: interpretation), in paragraph (1)(1), in the definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme”(a),

(a) after sub-paragraph (a)(i) insert—

“(ia) indefinite leave to enter or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the Immigration rules as defined in section 33(1) of the Immigration Act 1971;”;

(b) in sub-paragraph (a)(iv), after “of those rules” insert “or paragraph ARAP 16.1 of Appendix Afghan Relocation and Assistance Policy of those rules”;

(c) (i) insert “or” at the end of sub-paragraph (a)(ii);

(ii) at the end of paragraph (a)(iii), for “or” substitute “and”;

(iii) omit sub-paragraph (a)(iv).

3. In Part 1 of the Schedule (eligible students: interpretation), in paragraph (1)(1), in the definition of “person granted leave under the Afghan Citizens Resettlement Scheme”(b),

(a) at the end of sub-paragraph (a)(i), for “or” substitute “and”;

(b) omit sub-paragraph (a)(ii) (other than “and” at the end of that sub-paragraph);

(c) for paragraph (a) substitute—

“(a) who has indefinite leave to enter or remain in the United Kingdom, outside the immigration rules, on the basis of the Afghan Citizens Resettlement Scheme; and”

4. In Part 2 of the Schedule (eligible students: categories)—

(a) for paragraph (3G)(c) (including the heading) substitute—

“Persons granted leave under one of the Afghan Schemes and their family members

3G.—(1) A person granted leave under one of the Afghan Schemes, who is ordinarily resident in Northern Ireland on the course start date.

(2) A person who—

(a) is the spouse or civil partner of a person granted leave under one of the Afghan Schemes;

(b) on the leave application date, was the spouse or civil partner of that person;

(c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom; and

(d) is ordinarily resident in Northern Ireland on the course start date.

(3) A person who—

(a) is—

(a) Words in Sch. Para. 1 inserted by S.R. 2022 No. 183.

(b) Words in Sch. Para. 1 inserted by S.R. 2022 No. 183.

(c) paragraph (3G) was inserted by S.R. 2022 No. 183.

- (i) the child of a person granted leave under one of the Afghan Schemes; or
 - (ii) the child of the spouse or civil partner of a person granted leave under one of the Afghan Schemes;
 - (b) on the leave application date, was—
 - (i) the child of the person granted leave under one of the Afghan Schemes; or
 - (ii) the child of a person who was the spouse or civil partner of a person granted leave under one of the Afghan Schemes on that date;
 - (c) was under 18 on the leave application date;
 - (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
 - (e) is ordinarily resident in Northern Ireland on the course start date.
- (4) In this paragraph “leave application date” means the date on which the person granted leave under one of the Afghan Schemes made an application for leave to enter or remain in the United Kingdom.”;
- (b) for paragraph (3I)(a) (including the heading) substitute—

“Persons granted leave under one of the Ukraine Schemes and their family members

3I.—(1) A person granted leave under one of the Ukraine Schemes, who is ordinarily resident in Northern Ireland on the course start date.

- (2) A person who—
- (a) is the spouse or civil partner of a person granted leave under one of the Ukraine Schemes;
 - (b) on the leave application date, was the spouse or civil partner of that person;
 - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom; and
 - (d) is ordinarily resident in Northern Ireland on the course start date.

- (3) A person who—
- (a) is—
 - (i) the child of a person granted leave under one of the Ukraine Schemes; or
 - (ii) the child of the spouse or civil partner of a person granted leave under one of the Ukraine Schemes;
 - (b) on the leave application date, was—
 - (i) the child of the person granted leave under one of the Ukraine Schemes; or
 - (ii) the child of a person who was the spouse or civil partner of a person granted leave under one of the Ukraine Schemes on that date;
 - (c) was under 18 on the leave application date;
 - (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
 - (e) is ordinarily resident in Northern Ireland on the course start date.

(4) In this paragraph “leave application date” means the date on which the person granted leave under one of the Ukraine Schemes made an application for leave to enter or remain in the United Kingdom.”.

(a) paragraph (3I) was inserted by S.R. 2022 No. 183.

CHAPTER 2

Amendments relating to the ordinary residence requirements for students in existing protected categories

5. In Part 1 of the Schedule (eligible students: interpretation), in paragraph (1)(1), (as amended by regulations 2 and 3 of these regulations), after the definition of “the 2020 Citizens’ Rights Regulations” insert—

““course start date” means the day on which the first term of the first academic year of a designated course actually begins;”.

6. In Part 2 of the Schedule (eligible students: categories) (as amended by regulation 4 of these regulations)—

(a) in paragraph (2A)(1)(a)(a) (persons who are settled in the United Kingdom) for “the day on which the first term of the first academic year actually begins” substitute “the course start date”;

(b) in paragraph (3A)(b) (other than the heading) (persons granted section 67 leave), substitute—

“(3A)—

A person granted section 67 leave who is ordinarily resident in Northern Ireland on the course start date.”;

(c) in paragraph (3B)(c) (other than the heading) (persons granted Calais leave), substitute—

“(3B)—

A person granted Calais leave who is ordinarily resident in Northern Ireland on the course start date.”;

(d) in paragraph (3C)(d) (persons granted humanitarian protection and their family members)—

(i) in sub-paragraph (1) for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date”;

(ii) in sub-paragraph (2)(d) for “United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date”;

(iii) in sub-paragraph (3)(e) for “the first day of the first academic year of the course” substitute “the course start date”;

(e) in paragraph (3D)(e) (persons granted indefinite leave to remain as a bereaved partner), for “the first day of the first academic year of the course” substitute “the course start date”;

(f) in paragraph (3E)(f) (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse), for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date”;

(g) in paragraph (3F)(g) (persons granted stateless leave and their family members)—

(i) in sub-paragraph (1) for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date”;

(ii) in sub-paragraph (2)(b) for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date; and”;

(a) paragraph (2A) was inserted by S.R. 2021 No. 202 and amended by S.R. 2022 No. 183.

(b) paragraph (3A) was inserted by S.R. 2021 No. 202.

(c) paragraph (3B) was inserted by S.R. 2021 No. 202.

(d) paragraph (3C) was inserted by S.R. 2021 No. 202.

(e) paragraph (3D) was inserted by S.R. 2021 No. 202.

(f) paragraph (3E) was inserted by S.R. 2021 No. 202.

(g) paragraph (3F) was inserted by S.R. 2021 No. 202.

- (iii) after sub-paragraph (2)(b) insert—
 - “(c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom.”
- (iv) in sub-paragraph (3)(c) for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date; and”;
- (v) after sub-paragraph (3)(c) insert—
 - “(d) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom.”
- (h) in paragraph (3H)(a) (evacuated or assisted British nationals from Afghanistan), for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date”;
 - (i) in paragraph (4)(b) (persons with leave to enter or remain on the grounds of discretionary leave and their family members)—
 - (ii) in sub-paragraph (1) for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date”;
 - (iii) in sub-paragraph (2)(d) for “the United Kingdom on the first day of the first academic year of the course” substitute “Northern Ireland on the course start date”;
 - (iv) in sub-paragraph (3)(d) for “the first day of the first academic year of the course” substitute “the course start date”;
- (i) in paragraph (5E)(1)(c) (Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (i) in sub-paragraph (c) for “the day on which the first term of the first academic year actually begins” substitute “the course start date”;
- (j) in paragraph (5F)(1)(d) (Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere) —
 - (i) in sub-paragraph (d) for “the United Kingdom on the day on which the first term of the first academic year actually begins” substitute “Northern Ireland on the course start date”;

CHAPTER 3

Victims of domestic abuse

7. In Part 1 of the Schedule (eligible students: interpretation) (as amended by regulations 2, 3 and 5 of these regulations), in paragraph (1)(1), in the definition of “person granted indefinite leave to remain as a victim of domestic violence or domestic abuse”(e)—

- (a) for “leave to remain”, in both places, substitute “leave to enter or remain”;
- (b) for paragraphs (i) to (iii) of sub-paragraph (a), substitute—
 - “(i) paragraph VDA 9.1 of the Appendix Victim of Domestic Abuse; or
 - (ii) where such leave was granted before the coming into force of the Appendix Victim of Domestic Abuse, paragraph 289B (victims of domestic violence), paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse) or paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces);”.

(a) paragraph (3H) was inserted by S.R. 2022 No. 183.
 (b) paragraph (4) was substituted by S.R. 2021 No. 202.
 (c) paragraph (5E) was inserted by S.R. 2021 No. 202.
 (d) paragraph (5F) was inserted by S.R. 2021 No. 202.
 (e) Words in Sch. Para. (1) inserted by S.R. 2021 No. 202.

8. In Part 2 of the Schedule (eligible students: categories) (as amended by regulations 4 and 6 of these regulations), in paragraph (3E)(a) (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse), in each place it occurs, including in the heading to paragraph (3E) of the Schedule, for “leave to remain”, substitute “leave to enter or remain”.

CHAPTER 4

Children of persons granted indefinite leave to enter or remain as a victim of domestic violence or abuse or as a bereaved partner

9. In Part 2 of the Schedule (eligible students: categories) (as amended by regulations 4, 6 and 8 of these regulations)—

- (a) in the heading to paragraph (3E)(b) (persons granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse), at the end, insert “and their children”;
- (b) paragraph (3E)(c) becomes sub-paragraph (1) of that paragraph;
- (c) after that sub-paragraph (1) insert—

“(2) A person—

- (a) granted indefinite leave to enter or remain;
- (b) who—
 - (i) is the child of a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse; and
 - (ii) on the leave application date, was the child of the person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse;
- (c) who was under 18 on the leave application date;
- (d) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave; and
- (e) who is ordinarily resident in Northern Ireland on the course start date.

(3) In this paragraph, “leave application date” means the date on which a person granted indefinite leave to enter or remain as a victim of domestic violence or domestic abuse made an application to enter or remain in the United Kingdom on those grounds under the immigration rules.”;

- (d) in the heading to paragraph (3D)(d) (persons granted indefinite leave to remain as a bereaved partner), at the end, insert “and their children”;
- (e) paragraph (3D)(e) becomes sub-paragraph (1) of that paragraph;
- (f) after that sub-paragraph (1) insert—

“(2) A person—

- (a) granted indefinite leave to remain;
- (b) who—
 - (i) is the child of a person granted indefinite leave to remain as a bereaved partner; and
 - (ii) on the leave application date, was the child of the person granted indefinite leave to remain as a bereaved partner;
- (c) who was under 18 on the leave application date;
- (d) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave; and

(a) paragraph (3E) was inserted by S.R. 2021 No. 202.
(b) paragraph (3E) was inserted by S.R. 2021 No. 202.
(c) paragraph (3E) was inserted by S.R. 2021 No. 202.
(d) paragraph (3D) was inserted by S.R. 2021 No. 202.
(e) paragraph (3D) was inserted by S.R. 2021 No. 202.

(e) who is ordinarily resident in Northern Ireland on the course start date.

(3) In this paragraph, “leave application date” means the date on which a person granted indefinite leave to remain as a bereaved partner made an application to remain in the United Kingdom on those grounds under the immigration rules.”.

CHAPTER 5

Other amendments

Amendment relating to Citizens’ Rights, residency and removal of references to grace period

10. In Part 2 of the Schedule (eligible students: categories) (as amended by regulation 4,6,8 and 9 of these regulations), in paragraph (2B)(1)(a)(a) omit sub-paragraph (iii).

Amendment to insert the definition of eligible student into The Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012

11. In Part 1 of the Schedule (eligible students: interpretation), in paragraph (1)(1), (as amended by regulation 2, 3, 5 and 7 of these regulations), after the definition of “EEA state” insert—

““eligible student” has the meaning given in regulation 4;”.

CHAPTER 6

Savings

Interpretation of Part 4

12. In this Part “earlier academic year” means an academic year beginning before 1st August 2024.

13. —Savings

(1) This regulation applies where an existing SSR Afghan scheme student (“S”) applies for support under the SSR 2012 in respect of a new academic year of a relevant course (the “current course”).

(2) For the purposes of determining whether S’s status as an eligible student terminates before the first day of the academic year of the current course in respect of which S is applying for support(see regulation 4 of the SSR 2012), the SSR 2012 apply as if the amendments made by regulations 2(c), 3 and 4(a) of these Regulations had not been made.

(3) In this regulation—

“designated course” and “eligible student” have the meanings given in the SSR 2012;

“existing SSR Afghan scheme student” means a student who the Secretary of State determined, by virtue of the student falling within paragraph (a)(ii) of the definition of “person granted leave under the Afghan Citizens Resettlement Scheme” in regulation 1(1) of the SSR 2012, or paragraph (a)(iv) of the definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme” in that regulation, to be a relevant student—

(a) in connection with an application for support for an earlier academic year of the current course, or

(b) in connection with an application for support for a relevant course from which the student’s status as an eligible student has been transferred to the current course;

“relevant course” means a designated course;

“relevant student” means an eligible student;

(a) paragraph (2B)(1)(a) was inserted by S.R. 2021 No. 202

“the SSR 2012” means The Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012.”

Sealed with the Official Seal of the Department for the Economy on 11th June 2024.



Ms Louise Watson
A senior officer of the Department for the Economy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend legislation which makes provision about student support in the form of grants in respect of fees payable in connection with attendance on courses at an institution of further education.

These Regulations come into force on 1 August 2024.

Chapter 1 of these regulations amends the legislation to update the categories of students who may be eligible for support to include certain family members of persons who are granted leave to enter or remain in the United Kingdom under an Afghan or Ukraine related immigration scheme. It also amends the reference to the relevant paragraph in Appendix Afghan Relocation and Assistance Policy of the Immigration Rules to describe the way indefinite leave to enter or remain is given under that paragraph.

Chapter 2 of these regulations amends the legislation to change the eligibility requirements for students who are in certain existing protection based categories (such as refugees and their family members, persons granted stateless leave and persons with Calais leave), so that they may qualify for support if they are ordinarily resident in Northern Ireland on the day on which the first term of the first academic year of their course actually begins.

Chapter 3 of these regulations amends the legislation to update the categories of students who may be eligible for support to include those who are granted indefinite leave to enter the United Kingdom as a result of domestic violence or abuse. This category of person will qualify for support if they are ordinarily resident in Northern Ireland on the day on which the first term of the first academic year of their course actually begins. Previously, the Immigration rules only provided a route to settlement from within the UK and student support only provided corresponding support to those who had been granted indefinite leave to remain as a result of domestic violence or abuse.

Chapter 4 of these regulations amends the legislation to update the categories of students who may be eligible for support to include children of those granted Indefinite Leave to Enter and Remain as a victim of domestic violence or abuse and Children of those granted Indefinite Leave to Remain as a bereaved partner. This category of person will qualify for support if they meet the eligibility criteria as set out in the regulations and are ordinarily resident in Northern Ireland on the day on which the first term of the first academic year of their course actually begins. Previously, children of these categories of persons did not qualify for support.

Chapter 5 of these regulations amends the legislation to remove references to the grace period, and to insert the definition of eligible student into the interpretation section of the legislation.

Chapter 6 of these regulations includes savings provisions so that family members of persons granted leave under one of the Afghan Schemes who have already qualified for support under The Further Education (Student Support) (Eligibility) Regulations (Northern Ireland) 2012, can continue to qualify for support on that basis.

A regulatory impact assessment has not been produced for this rule as no, or no significant impact on the private, voluntary or public sectors is foreseen.

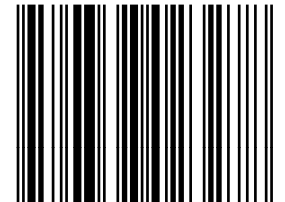
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