
STATUTORY INSTRUMENTS

2005 No. 52

The Education (Student Support) Regulations 2005

PART 2

ELIGIBILITY

Eligible students

4.—(1) An eligible student shall qualify for support in connection with a designated course subject to and in accordance with these Regulations.

(2) A person is an eligible student in connection with a designated course if—

- (a) the Secretary of State has determined in connection with that course that the person is mentioned in Schedule 2; and
- (b) the person is not excluded by paragraph (3).

(3) A person shall not be an eligible student if—

- (a) an old award has been bestowed on him in respect of his attendance on the course;
- (b) he is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;
- (c) there has been bestowed on him or paid to him in relation to his attendance on the course—
 - (i) a healthcare bursary the amount of which is not calculated by reference to his income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(1);
- (d) he is in breach of any obligation to repay any loan;
- (e) he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18; or
- (f) he has, in the opinion of the Secretary of State, shown himself by his conduct to be unfitted to receive support.

(4) For the purposes of paragraphs (3)(d) and (3)(e), “loan” means a loan made under the student loans legislation.

(5) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(e) shall only apply 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 he had no curator.

(6) An eligible student in respect of whom the first academic year of the course begins on or after 1st September 2000 shall not, at any one time, qualify for support for—

- (a) more than one designated course;
 - (b) a designated course and a designated part-time course;
 - (c) a designated course and a designated postgraduate course.
- (7) Notwithstanding paragraph (2), a person shall be an eligible student for the purposes of these Regulations if—
- (a) he qualified as an eligible student in connection with an earlier academic year of the present designated course pursuant to regulations made under section 22 of the Act and that status has not expired or been terminated; or
 - (b) the Secretary of State has previously determined that the person is—
 - (i) an eligible part-time student in connection with a designated part-time course; or
 - (ii) an eligible student in connection with a designated course other than the present course
 and the student's status as an eligible part-time student or as an eligible student in connection with that course has been converted or transferred from that course to the present course as a result of one or more conversions or transfers in accordance with regulations made under section 22 of the Act.

Designated courses

- 5.—(1) Subject to paragraph (2), a course is a designated course for the purposes of section 22(1) of the Act and regulation 4 if it is—
- (a) mentioned in Schedule 3;
 - (b) one of the following—
 - (i) a full-time course;
 - (ii) a sandwich course; or
 - (iii) a part-time course for the initial training of teachers;
 - (c) of at least one academic year's duration; and
 - (d) 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.
- (2) A course falling within paragraph 6 or 7 of Schedule 3 is not a designated course where the governing body of a maintained school has arranged for the provision of such a course to a pupil of the school.
- (3) 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 the institution has entered into 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 shall be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
 - (c) an institution shall not 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).

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

(4) A course to which this paragraph applies shall be considered to be a single course for a first degree or for an equivalent qualification notwithstanding that—

- (a) the course may lead to another degree or qualification being conferred before the degree or equivalent qualification; and
- (b) part of the course may be optional.

(5) Paragraph (4) applies to a course the standard of which is not higher than a first degree which leads to a qualification as a medical doctor, dentist, veterinary doctor, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner.

(6) For the purposes of section 22 of the Act and regulation 4(1) the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

6.—(1) An eligible student shall retain his status as an eligible student for the duration of the period of eligibility.

(2) Subject to the following paragraphs, the “period of eligibility” is equal to the period ordinarily required for the completion of the designated course.

(3) The period of eligibility shall be extended to the end of the academic year in which the eligible student completes his course in respect of—

- (a) grants for living costs;
- (b) loans for living costs; and
- (c) grants for fees where the student repeats part of his course.

(4) The Secretary of State may, at any time, renew or extend the period of eligibility for such further period as she determines.

(5) The period of eligibility shall terminate when the eligible student—

- (a) withdraws from his designated course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert his status as an eligible student under regulation 7 or regulation 42(1); or
- (b) abandons or is expelled from his designated course.

(6) The Secretary of State may terminate the period of eligibility where the eligible student has shown himself by his conduct to be unfitted to receive support.

(7) If the Secretary of State is satisfied that an eligible student has failed to comply with any requirement to provide information under these Regulations or has provided information which is inaccurate in a material particular, the Secretary of State may take such of the following actions as she considers appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for any particular support or particular amount of support;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 33.

Transfer of status

7.—(1) Where an eligible student transfers to another course, the Secretary of State shall transfer the student’s status as an eligible student to that course where—

- (a) she receives a request from the eligible student to do so;

- (b) she is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
 - (c) the period of eligibility has not expired or been terminated.
- (2) The grounds for transfer referred to in paragraph (1) are—
- (a) on the recommendation of the academic authority the eligible student starts to attend another designated course at the institution;
 - (b) the eligible student starts to attend a designated course at another institution with the consent of the academic authority of that institution;
 - (c) after commencing a course for the Certificate in Education, the eligible student is, on or before the completion of that course, admitted to a designated course for the degree of Bachelor of Education either at the same institution or at another institution;
 - (d) after commencing a course for the degree (other than an honours degree) of Bachelor of Education, the eligible student is, on or before the completion of that course, admitted to a designated course for the honours degree of Bachelor of Education either at the same institution or at another institution; or
 - (e) after commencing a course for a first degree (other than an honours degree) the eligible student is, before the completion of that course, admitted to a designated course for an honours degree in the same subject or subjects at the institution.
- (3) Subject to paragraph (4), an eligible student who transfers under paragraph (1) shall, for the remainder of the academic year in which he transfers, continue to receive in connection with the course to which he transfers the support for which the Secretary of State has determined he qualifies in respect of the course from which he transfers.
- (4) The Secretary of State may re-assess the amount of support payable after the transfer in accordance with these Regulations.