

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (FEES AND AWARDS) (ENGLAND) REGULATIONS 2007**

**2007 No. 779**

1. This Explanatory Memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These Regulations provide that it shall be lawful to charge higher tuition fees to persons who do not have a specified connection with the UK than to those who do. They also enable rules of eligibility to be adopted for making awards for undertaking education or research, which confine awards to persons having the specified connection with the UK. Such differentiation might otherwise not be lawful under the Race Relations Act 1976. The persons with the specified connection are those mentioned in Schedule 1 to the Regulations.

**3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments**

3.1 The Department gave an undertaking to the JCSI in early 2006 when it last made amendments to the Education (Fees and Awards) Regulations 1997 that it would consolidate the Regulations because there had been various sets of amending Regulations and they were becoming overly complex. These Regulations are a consolidation of the 1997 Regulations plus subsequent amendments.

**4. Legislative Background**

4.1 These Regulations are made under sections 1 and 2 of the Education (Fees and Awards) Act 1983, and consolidate the Education (Fees and Awards) Regulations 1997 together with subsequent amending Regulations.

**5. Territorial Extent and Application**

5.1 This instrument applies to England.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

7.1 There have been various changes made to the 1997 Regulations (as amended) to bring the Regulations up to date. Following the transfer of functions under

Section 1 of the Education (Fees and Awards) Act 1983 to the National Assembly of Wales, these Regulations only apply in relation to England.

- 7.2 The institutions listed in regulation 4 have been amended. Existing institutions details have been updated where necessary and the list of further education establishments has been removed. Research has shown that some of the establishments were Long Term Residential colleges who used to have loan bearing courses. However the Further Education Funding Council took on responsibility for these institutions in 1993, thereby bringing them within the FE sector, and they are therefore covered elsewhere in the Regulations and do not need to be singled out.
- 7.3 The 1997 Regulations provided that it should be lawful for the Higher Education Funding Council and the Training and Development Agency for Schools to adopt eligibility criteria for their awards. These Regulations create a new section dealing with payments made by the Learning and Skills Council (LSC).
- 7.4 The reference to Postgraduate Agricultural Studentships offered by the former Ministry of Agriculture, Fisheries and Food has been removed as it has been established that they were abolished in 1999 and the funding or studentships were not transferred elsewhere.
- 7.5 Schedule 1 sets out the categories of person with a specified connection to the UK. There have been certain changes to the list of categories since the 1997 Regulations were last amended.
- 7.6 The definition of family members of students who are granted refugee status or leave to enter or remain in the UK as a result of an asylum application to the Home Office has been narrowed to include only the family members who were such at the time of the principal's asylum application to the Home Office. This change is in line with the policy on student support as reflected by the Education (Student Support) Regulations 2007 (SI 2007/176).
- 7.7 A new category for students who are EC nationals and who have been resident in specified overseas territories has been created. The overseas territories are those of the UK, France, the Netherlands and Denmark.
- 7.8 A second new category had been included – children of Turkish nationals who have come to the UK to work. These children have the right not to be treated worse than the children of UK workers under Article 9 of Decision 1/80 of the Association Council (established by the Association Agreement between the European Community and Turkey) in relation to certain education matters.
- 7.9 There is no statutory requirement to consult on these Regulations but the Department informally consulted with all the bodies mentioned in the 1997 Regulations, and, where bodies such as the Ministry of Agriculture, Fisheries and Food no longer exist, with their replacements.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal.

## **9. Contact**

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