
STATUTORY INSTRUMENTS

2009 No. 1555

The Education (Student Support) Regulations 2009

PART 2

ELIGIBILITY

Eligible students

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

(2) Subject to paragraph (3), a person is an eligible student in connection with a designated course if in assessing that person's application for support the Secretary of State determines that the person falls within one of the categories set out in Part 2 of Schedule 1.

(3) A person ("A") is not an eligible student if—

- (a) an old award has been bestowed on A in respect of A's attendance on the course;
- (b) A 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, or paid to, A in connection with the course—
 - (i) a healthcare bursary the amount of which is not calculated by reference to A's income; or
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(1);
- (d) A is in breach of any obligation to repay any loan;
- (e) A has reached the age of 18 and has not ratified any agreement for a loan made with A when A was under the age of 18; or
- (f) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support.

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

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

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

- (a) more than one designated course;
 - (b) a designated course and a designated distance learning course;
 - (c) a designated course and a designated part-time course;
 - (d) a designated course and a designated postgraduate course.
- (7) Subject to paragraphs (11) to (13), if a person satisfies the conditions in paragraph (8), (9) or (10)—
- (a) paragraphs (2) and (3) do not apply to that person and
 - (b) that person is an eligible student for the purposes of these Regulations.
- (8) The conditions are—
- (a) the person qualified as an eligible student in connection with an earlier academic year of the current course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (b) the person was not ordinarily resident in Wales on the first day of the first academic year of the current course; and
 - (c) the person's status as an eligible student has not terminated.
- (9) The conditions are—
- (a) the current course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of "end-on course" in regulation 2) which the person begins on or after 1st September 2006;
 - (b) the person qualified as an eligible student in connection with the course in relation to which the current course is an end-on course;
 - (c) the period of eligibility in respect of the course referred to in sub-paragraph (b) ceased only on the grounds that the student had completed the course; and
 - (d) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (b).
- (10) The conditions are—
- (a) 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;
 - (ii) an eligible distance learning student in connection with a designated distance learning course; or
 - (iii) an eligible student in connection with a designated course other than the current course;
 - (b) the person's status as an eligible part-time student, as an eligible distance learning student or as an eligible student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;
 - (c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
 - (d) the person's status as an eligible student has not terminated.
- (11) Where—
- (a) the Secretary of State determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was—

- (i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which A's status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or
 - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A's status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of A's spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002), A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(12) Where—

- (a) the Secretary of State determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person ("A") was—
 - (i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which A's status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or
 - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A's status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; 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 with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(13) Paragraphs (11) and (12) do not apply where A began the course in connection with which the Secretary of State determined that A was an eligible part-time student, an eligible student or a qualifying student, as the case may be, before 1st September 2007.

Designated courses

6.—(1) Subject to paragraphs (2), (3), (4) and (5), a course is a designated course for the purposes of section 22(1) of the 1998 Act and regulation 5 if it is—

- (a) mentioned in Schedule 2;
- (b) one of the following—

- (i) a full-time course;
 - (ii) a sandwich course; or
 - (iii) a course for the initial training of teachers;
- (c) not a designated distance learning course;
- (d) of at least—
- (i) one academic year's duration; or
 - (ii) six weeks' duration in the case of a flexible postgraduate course for the initial training of teachers; and
- (e) 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 7 or 8 of Schedule 2 is not a designated course where the governing body of a maintained school or Academy has arranged for the provision of such a course to a pupil of the school or Academy.
- (3) A course that is taken as part of an employment-based teacher training scheme is not a designated course.
- (4) A first degree course is not a designated course where—
- (a) it leads to the award of a professional qualification;
 - (b) a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification; and
 - (c) the current course begins on or after 1st September 2009.
- (5) Paragraph (1)(c) does not apply where the person applying for support in connection with the course is—
- (a) a disabled student; and
 - (b) undertaking that course in the United Kingdom but not in attendance because the person is unable to attend for a reason which relates to that person's disability.
- (6) 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 is to be regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
 - (c) an institution is not to 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).
- (7) Subject to paragraph (4), a course to which this paragraph applies is considered to be a single course for a first degree or for an equivalent qualification even if—
- (a) the course leads to another degree or qualification being conferred before the degree or equivalent qualification; and
 - (b) part of the course is optional.

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

(8) Paragraph (7) 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 surgeon, architect, landscape architect, landscape designer, landscape manager, town planner or town and country planner.

(9) For the purposes of section 22 of the 1998 Act and regulation 5(1) the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

Period of eligibility

7.—(1) A student's status as an eligible student is retained in connection with a designated course until the status terminates in accordance with this regulation or regulation 5.

(2) The period for which an eligible student retains that status is the "period of eligibility".

(3) Subject to the following paragraphs and regulation 5, the period of eligibility terminates at the end of the academic year in which the student completes the designated course.

(4) The period of eligibility terminates when the eligible student ("A")—

(a) withdraws from A's designated course in circumstances where the Secretary of State has not transferred or converted or will not transfer or convert A's status as an eligible student under regulation 8,128 or 146; or

(b) abandons or is expelled from A's designated course.

(5) the Secretary of State may terminate the period of eligibility where A has shown by A's conduct that A is unfitted to receive support.

(6) 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 the Secretary of State 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 Chapter 5 of Part 9.

(7) Where the period of eligibility terminates before the end of the academic year in which the student completes the designated course, the Secretary of State may, at any time, renew the period of eligibility for such period as the Secretary of State determines.

Transfer of status

8.—(1) Where an eligible student "A" transfers to another course, the Secretary of State must transfer A's status as an eligible student to that course where—

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

(b) he is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) on the recommendation of the academic authority A ceases one course and starts to—

(i) attend another designated course at the institution;

(ii) undertake another compressed degree course at the institution; or

(iii) undertake a compressed degree course at the institution;

(b) A starts to—

- (i) attend a designated course at another institution; or
 - (ii) undertake a compressed degree course at another institution;
 - (c) after starting a course for the Certificate in Education, A is, on or before the completion of that course, admitted to a designated course for the degree (including an honours degree) of Bachelor of Education either at the same institution or at another institution;
 - (d) after starting a course for the degree (other than an honours degree) of Bachelor of Education, A 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 starting a course for a first degree (other than an honours degree) A 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), where A transfers under paragraph (1), A is entitled to receive in connection with the academic year of the course to which A transfers the remainder of the support assessed by the Secretary of State in respect of the academic year of the course from which A transfers.
- (4) The Secretary of State may re-assess the amount of support payable after the transfer.
- (5) Where A transfers under paragraph (1) after the Secretary of State has assessed A's support in connection with the academic year of the course from which A is transferring but before A completes that year, A may not, in connection with the academic year of the course to which A transfers, apply for another grant or loan of a kind that A has already applied for under these Regulations in connection with the academic year of the course from which A is transferring unless otherwise provided.