
STATUTORY INSTRUMENTS

2018 No. 599

The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018

PART 1

CHAPTER 2

Eligible students

3.—(1) An eligible student qualifies for a postgraduate doctoral degree loan in connection with a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraphs (3) to (9), a person is an eligible student in connection with a designated course if in assessing that person's application for a postgraduate doctoral degree loan 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) A has reached the age of 60 on the first day of the academic year in which the designated course starts;
- (b) A is in breach of any obligation to repay any loan;
- (c) 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;
- (d) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive a postgraduate doctoral degree loan;
- (e) A is a prisoner, unless A is an eligible prisoner;
- (f) A is enrolled on a course which is a designated course under regulation 5 (designated courses) or 139 (designated part-time courses) of the student support regulations^{MI} or under regulation 4 (designated courses) of the 2016 Master's Degree Regulations, and is receiving support under either set of regulations for that course;
- (g) A has already obtained an equivalent or higher qualification;
- (h) A is already enrolled on a designated course and is in receipt of a postgraduate doctoral degree loan under these Regulations for that course;
- (i) subject to paragraph (9), A has previously received a postgraduate doctoral degree loan under these Regulations;
- (j) A is, in connection with the course, in receipt of any allowance, bursary or award of similar description made by UKRI;
- (k) A is eligible to apply for, in connection with the course—
 - (i) a healthcare bursary;

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- (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 ^{M2}; or
- (iii) any allowance, bursary or award of similar description made under section 67(4) (a) of the Care Standards Act 2000 ^{M3}^{F1}, or under section 46 of the Children and Social Work Act 2017,] which includes payment for meeting additional expenditure incurred by A by reason of A's disability, save to the extent that A is eligible only for such an allowance, bursary or award in respect of travel expenses; or
- (l) subject to paragraph (9), A has previously received a loan other than under these Regulations in respect of a course, where that loan was paid out of funds provided by a government authority within the United Kingdom.
- (4) Where the eligible student is undertaking a designated course which is a distance learning course, the student does not qualify for support in respect of that course unless the Secretary of State considers that the student is undertaking the course in England on the first day of the first academic year of the course, whether the course is a designated course at that date or is designated on a later date during the academic year.
- (5) For the purposes of paragraph (4), a person (“A”) is to be treated as being ordinarily resident in England for any period during which A would have been so resident but for the fact that—
- A,
 - A's spouse or civil partner,
 - in the case of a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,
- is or was temporarily employed in Wales, Scotland or Northern Ireland as a member of the regular naval, military or air forces of the Crown.
- (6) An eligible student ceases to be eligible for a postgraduate doctoral degree loan in respect of a distance learning course if the Secretary of State considers that the student is undertaking the course outside the United Kingdom notwithstanding whether that student has previously been considered by the Secretary of State to be undertaking their course within the United Kingdom.
- (7) Paragraphs (4) and (6) do not apply to a person who is treated as ordinarily resident in the United Kingdom by virtue of paragraph 1(5) of Schedule 1 on the basis of temporary employment falling within paragraph 1(6)(a) of Schedule 1.
- (8) For the purposes of paragraphs (3)(b) and (3)(c), “loan” means a loan made under any provision of the student loans legislation.
- (9) The Secretary of State may deem a person described in paragraph (3)(i) or (3)(l) to be an eligible student where the Secretary of State is of the view that the person had not been able to complete the course to which the previous loan related due to compelling personal reasons.
- (10) The Secretary of State may only exercise the discretion under paragraph (9) once in respect of a particular student.

Textual Amendments

- F1** Words in [reg. 3\(3\)\(k\)\(iii\)](#) inserted (coming into force in accordance with reg. 1 of the amending S.I.) by [The Children and Social Work Act 2017 \(Consequential Amendments\) \(Social Workers\) Regulations 2019 \(S.I. 2019/1094\)](#), [Sch. 3 para. 44](#)

Marginal Citations

- M1** Regulation 5 was amended by [S.I. 2013/1728](#), [S.I. 2013/3106](#), [S.I. 2014/2765](#), [S.I. 2015/1951](#), [S.I. 2017/114](#), [S.I. 2018/136](#), [S.I. 2018/137](#), [S.I. 2018/434](#), [S.I. 2018/443](#). Regulation 139 was amended

by S.I. 2013/1728, S.I. 2013/3106, S.I. 2014/2765, S.I. 2018/137, S.I. 2018/434, S.I. 2018/443; S.I. 2018/472.

M2 S.S.I 2007/151; relevant amending instruments are S.I. 2002/253, S.S.I. 2007/503, S.S.I. 2009/188, S.S.I. 2009/309, S.S.I. 2012/72, S.S.I. 2013/80, S.S.I 2016/82, S.S.I 2017/180.

M3 2000 c.14; section 67(4)(a) was amended by Part 2 of Schedule 3 to the Regulation and Inspection of Social Care (Wales) Act 2016 anaw 2 (subject to savings and transitional provisions specified in S.R. & O 2017/309 articles 3 and 4 and Schedule 1).

Designated courses

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

(a) is a postgraduate doctoral degree course of between three and eight academic years duration;

[^{F2}(b) is one of the following—

(i) wholly provided by a registered provider, or provided by a registered provider or unregistered provider on behalf of a registered provider in England;

(ii) wholly provided by an authority-funded institution in Scotland, Northern Ireland or Wales;

(iii) provided by a registered provider on behalf of an authority-funded institution in Scotland, Northern Ireland or Wales;

(iv) provided by an institution situated in Scotland, Northern Ireland or Wales on behalf of a registered provider in England, or by a publicly funded institution situated in Scotland, Northern Ireland or Wales on behalf of an authority-funded institution in Scotland, Northern Ireland or Wales;

(v) provided by a registered provider in England in conjunction with an institution which is situated outside the United Kingdom;

(vi) provided by an authority-funded institution in Scotland, Northern Ireland or Wales in conjunction with an institution which is situated outside the United Kingdom;]

(c) is substantially provided in the United Kingdom; and

(d) is a postgraduate doctoral degree course which –

(i) leads to an award granted or to be granted by a body falling within section 214(2) [^{F3}(za), (zb),] (a) or (b) of the Education Reform Act 1988 ^{M4}; and

(ii) the teaching and supervision which comprise the course has been approved by that body.

(2) For the purposes of paragraph (1)(b) and (c)—

(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 course is substantially provided in the United Kingdom where at least half of the teaching and supervision which comprise the course is provided in the United Kingdom;

(c) a university and any constituent college or institution in the nature of a college of a university is to be regarded as authority-funded if either the university or the constituent college or institution is authority-funded;

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- (d) an institution is not to be regarded as publicly funded or authority-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 ^{M5}; and
- (e) a course is not to be regarded as provided on behalf of an authority-funded educational institution where a part of the course is provided by a private institution [^{F4}in Scotland, Northern Ireland or Wales, or by a private institution which is an unregistered provider in England].

(3) The designated course may, but need not, be a distance learning course.

[^{F5}(3A) A course is not a designated course if its designation has been revoked or is suspended under paragraph (6).]

(4) A course cannot be a designated course for the purposes of regulation 3 if it is recognised as a designated course for the purposes of regulation 5 (designated courses) or 139 (designated part-time courses) of the student support regulations or regulation 4 (designated courses) of the 2016 Master's Degree Regulations.

(5) For the purposes of section 22 of the 1998 Act and regulation 3(1), the Secretary of State may designate courses of higher education which are not designated under paragraph (1).

(6) The Secretary of State may revoke or suspend the designation of a course which is designated under [^{F6}this regulation].

Textual Amendments

- F2** Reg. 4(1)(b) substituted (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **49(2)** (with reg. 1(2)(5))
- F3** Words in reg. 4(1)(d) inserted (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **49(3)** (with reg. 1(2)(5))
- F4** Words in reg. 4(2)(e) inserted (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **49(4)** (with reg. 1(2)(5))
- F5** Reg. 4(3A) inserted (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **49(5)** (with reg. 1(2)(5))
- F6** Words in reg. 4(6) substituted (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **49(6)** (with reg. 1(2)(5))

Marginal Citations

- M4** 1988 c.40; section 214(2) was amended by Schedule 8 of the Further and Higher Education Act 1992 (c.13) and section 53(2) to (4) of the Higher Education and Research Act 2017 (c.29).
- M5** 1992 c.13; section 65(3A) was inserted by section 27 of the Teaching and Higher Education Act 1998 (c.30). It was then amended by section 122 of the Higher Education and Research Act 2017 (c.29), subject to consequential, transitional, transitory and saving provisions made by S.I. 2018/245.

Period of eligibility

5.—(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 3.

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

(3) Subject to the following paragraphs and regulation 3, 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—

- (a) the eligible student (“A”) withdraws from A's designated course in circumstances where the Secretary of State is not obliged under regulation 6 to transfer A's status as an eligible student to another course; or
 - (b) A 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 a postgraduate doctoral degree loan.
- (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 a postgraduate doctoral degree loan;
 - (c) treat any postgraduate doctoral degree loan paid to the student as an overpayment which may be recovered under regulation 17.
- (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

- 6.—(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) the Secretary of State receives a request from the eligible student to do so;
 - (b) the Secretary of State 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 that—
- (a) on the recommendation of the academic authority, A ceases one designated course and starts to undertake another designated course at the same institution; or
 - (b) A starts to undertake a designated course at another institution.
- (3) 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 postgraduate doctoral degree loan in accordance with regulation 13 and, where relevant, regulation 16, in respect of the academic year of the course from which A transfers.

Students becoming eligible in the course of an academic year

7. Where one of the events listed in regulation 8 occurs during the currency of a student's course, a student may qualify for a postgraduate doctoral degree loan, provided the student complies with the application provisions set out in chapter 3 of Part 1.

Events

8. The events are—
- (a) the student's course becomes a designated course [^{F7}under regulation 4(5), or because the course is provided by or on behalf of an English higher education provider which becomes a registered provider];

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- (b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes a person granted stateless leave or a person granted humanitarian protection;
- (c) a state accedes to the EU where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EU national;
- (e) the student acquires the right of permanent residence;
- (f) the student becomes the child of a Turkish worker;
- (g) the student becomes a person described in paragraph 7(1)(a) of Schedule 1;
- (h) the student becomes the child of a Swiss national; ^{F8}...
- (i) the student commences a designated course after the start date of the designated course as the relevant academic authority has permitted the student to commence the course at this later start date [^{F9}; or]
- [^{F10}(j) the student becomes a person granted section 67 leave.]

Textual Amendments

- F7** Words in reg. 8(a) inserted (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **50(a)** (with reg. 1(2)(5))
- F8** Word in reg. 8(h) omitted (21.2.2019) by virtue of The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **50(b)** (with reg. 1(2)(3)(5))
- F9** Word in reg. 8(i) substituted for full stop (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **50(c)** (with reg. 1(2)(5))
- F10** Reg. 8(j) inserted (21.2.2019) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **50(d)** (with reg. 1(2)(3)(5))

Status:

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Changes to legislation:

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