
STATUTORY INSTRUMENTS

2023 No. 74

The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023

PART 3

Corresponding amendments to other subordinate legislation

CHAPTER 5

The Higher Education (Fee Limit Condition) (England) Regulations 2017

SECTION 1

Introductory

Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017

97. The Higher Education (Fee Limit Condition) (England) Regulations 2017⁽¹⁾ are amended in accordance with this Chapter.

SECTION 2

Definitions

Insertion of definition of “the course start date”

98. In regulation 2 (interpretation)⁽²⁾, after paragraph (ba) insert—

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

99.—(1) Part 2 of the Schedule (qualifying persons: categories)⁽³⁾ is amended as follows.

(2) In paragraph 3A(1) (persons who are settled in the United Kingdom)—

(a) in sub-paragraph (a), for “the day on which the first term of the first academic year actually begins” substitute “the course start date”;

(b) in sub-paragraph (b), for “the day on which the first term of the first academic year actually begins” substitute “the course start date”.

(3) In paragraph 9(1)(c) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), for “the day on which the first term of the first academic year actually begins” substitute “the course start date”.

(1) [S.I. 2017/1189](#).

(2) Paragraph (ba) was inserted by [S.I. 2018/903](#).

(3) Relevant amending instruments are [S.I. 2021/127](#) and [2012/929](#).

(4) In paragraph 9A(1)(d) (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), for “the day on which the first term of the first academic year actually begins” substitute “the course start date”.

Insertion of definition of “immigration rules”

100. In regulation 2 (interpretation)(4)—

- (a) after paragraph (bb) (definition of “dental profession subject”) insert—
 - “(bbzza) “immigration rules” has the meaning given in section 33(1) of the Immigration Act 1971;”;
- (b) in paragraph (bbza) (definition of “person granted indefinite leave to remain as a bereaved partner”), in paragraph (i) omit “, as defined in section 33(1) of the Immigration Act 1971”;
- (c) in paragraph (bba) (definition of “person granted indefinite leave to remain as a victim of domestic violence or domestic abuse”), in paragraph (i) omit “, as defined in section 33(1) of the Immigration Act 1971”;
- (d) in paragraph (bbab) (definition of “person granted leave under the Afghan Citizens Resettlement Scheme”), in paragraph (i)(aa) omit “as defined in section 33(1) of the Immigration Act 1971”;
- (e) in paragraph (bbac) (definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme”), in paragraph (a)(i)—
 - (i) for “Immigration Rules”, in the first place it occurs, substitute “immigration rules”;
 - (ii) for “Immigration Rules as defined in section 33(1) of the Immigration Act 1971” substitute “immigration rules”;
- (f) in paragraph (bbb) (definition of “person granted Calais Leave”), in paragraph (i) omit “, as defined in section 33(1) of the Immigration Act 1971”;
- (g) in the definition of “person granted leave under the Homes for Ukraine Sponsorship Scheme”—
 - (i) in paragraph (a)(i), for “Immigration Rules as defined in section 33(1) of the Immigration Act 1971” substitute “immigration rules”;
 - (ii) in paragraph (a)(ii), for “Immigration Rules as defined in section 33(1) of the Immigration Act 1971” substitute “immigration rules”;
- (h) in the definition of “person granted leave under the Ukraine Extension Scheme”, in paragraph (a), for “Immigration Rules as defined in section 33(1) of the Immigration Act 1971” substitute “immigration rules”;
- (i) in the definition of “person granted leave under the Ukraine Family Scheme”—
 - (i) in paragraph (a)(i), for “Immigration Rules as defined in section 33(1) of the Immigration Act 1971” substitute “immigration rules”;
 - (ii) in paragraph (a)(ii), for “Immigration Rules as defined in section 33(1) of the Immigration Act 1971” substitute “immigration rules”.

101.—(1) The Schedule (qualifying persons)(5) is amended as follows.

(2) In Part 1 (interpretation), in paragraph 1(1), in the definition of “person granted stateless leave”, in paragraph (a) omit “(within the meaning given in section 33(1) of the Immigration Act 1971)”.

(4) Relevant amending instruments are [S.I. 2020/48](#), [2020/1203](#), [2021/1348](#), [2022/57](#) and [2022/534](#).

(5) Relevant amending instruments are [S.I. 2020/1203](#), [2021/127](#) and [2021/929](#).

(3) In Part 2 (categories)—

- (a) in paragraph 4(2) (persons who are settled in the United Kingdom) omit “(as defined in section 33(1) of the Immigration Act 1971)”;
- (b) in paragraph 5A(4) (persons granted stateless leave and their family members) omit “(within the meaning given in section 33(1) of the Immigration Act 1971)”;
- (c) in paragraph 6(4)(a) (persons granted humanitarian protection and their family members) omit “as defined in section 33(1) of the Immigration Act 1971”.

Amendments to the definitions of “overseas territories” and “specified British overseas territories”

102. In Part 1 of the Schedule (qualifying persons: interpretation)(6), in paragraph 1(1)—

- (a) in the definition of “overseas territories”, for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”;
- (b) in the definition of “specified British overseas territories”, for “St Helena and Dependencies (Ascension Island and Tristan da Cunha)” substitute “St Helena, Ascension and Tristan da Cunha”.

Amendments to definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme”

103. In regulation 2 (interpretation), in the definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme” (as amended by regulation 100 of these Regulations)—

- (a) after paragraph (a)(i) insert—
 - “(ia) indefinite leave to enter the United Kingdom under paragraph ARAP 6.1 of Appendix Afghan Relocation and Assistance Policy of the immigration rules or indefinite leave to remain in the United Kingdom under paragraph ARAP 6.2 of that Appendix of those rules;”;
- (b) in paragraph (a)(iv), after “of those rules” insert “or paragraph ARAP 16.1 of Appendix Afghan Relocation and Assistance Policy of those rules”.

SECTION 3

Qualifying persons

Amendments relating to the ordinary residence requirements for existing protected categories

104.—(1) Part 2 of the Schedule (qualifying persons: categories)(7) is amended as follows.

(2) In paragraph 5 (refugees and their family members)—

- (a) in sub-paragraph (1)(c), for “the first day of the academic year of the course” substitute “the course start date”;
- (b) in sub-paragraph (2)(d), for “the first day of the first academic year of the course” substitute “the course start date”;

(6) The definition of “overseas territories” was amended by [S.I. 2020/1181](#). The definition of “specified British overseas territories” was inserted by [S.I. 2021/127](#).

(7) Paragraph 5A was substituted by [S.I. 2020/1203](#). Paragraph 5B was inserted by [S.I. 2019/142](#) and amended by [S.I. 2020/1203](#). Paragraph 5C was inserted by [S.I. 2020/48](#). Paragraph 5D was substituted by [S.I. 2020/1203](#). Paragraph 5E was inserted by [S.I. 2020/1203](#). Paragraph 5G was inserted by [S.I. 2022/534](#). Paragraph 6 was amended by [S.I. 2020/1203](#).

- (c) in sub-paragraph (3)(e), for “the first day of the first academic year of the course” substitute “the course start date”.
- (3) In paragraph 5A (persons granted stateless leave and their family members)—
- (a) in sub-paragraph (1), for “the first day of the first academic year of the course” substitute “the course start date”;
- (b) in sub-paragraph (2)(c), for “the first day of the first academic year of the course” substitute “the course start date”;
- (c) in sub-paragraph (3)(d), for “the first day of the first academic year of the course” substitute “the course start date”.
- (4) In paragraph 5B(b) (persons granted section 67 leave), for “the first day of the first academic year of the course” substitute “the course start date”.
- (5) In paragraph 5C (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse), for “the first day of the first academic year of the course” substitute “the course start date”.
- (6) In paragraph 5D (persons granted Calais leave), for “the first day of the first academic year of the course” substitute “the course start date”.
- (7) In paragraph 5E (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”.
- (8) In paragraph 5F (persons granted leave under one of the Afghan Schemes), for “the first day of the first academic year of the course” substitute “the course start date”.
- (9) In paragraph 5G (evacuated or assisted British Nationals from Afghanistan), for “the first day of the first academic year of the course” substitute “the course start date”.
- (10) In paragraph 6 (persons granted humanitarian protection and their family members)—
- (a) in sub-paragraph (1), for “the first day of the first academic year of the course” substitute “the course start date”;
- (b) in sub-paragraph (2)(d), for “the first day of the first academic year of the course” substitute “the course start date”;
- (c) in sub-paragraph (3)(e), for “the first day of the first academic year of the course” substitute “the course start date”.

Amendments relating to events occurring after the start of an academic year

105. Regulation 4 (qualifying person)(8) is amended as follows.

- (1) In paragraph (1) for the words from “falls within” to the end substitute—
- “—
- (a) falls within a settled category or a protected category—
- (i) on the course start date, where the relevant academic year is the first academic year of the person’s course, or
- (ii) otherwise, on the first day of a relevant academic year;
- (b) falls within a prescribed category on the first day of a relevant academic year.”
- (2) In paragraph (2)—
- (a) for “the date in that paragraph” substitute “1st September 2023”;

(8) Regulation 4 was amended by [S.I. 2021/127](#), [2021/929](#), [2021/1348](#) and [2022/534](#).

- (b) for “a prescribed category” substitute “a settled category, a protected category or a prescribed category”.
- (3) In paragraph (4)(a), omit—
 - (a) “3A,”;
 - (b) “5, 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 6,”;
 - (c) “9A,”.
- (4) After paragraph (6) insert—
 - “(7) Where a protected category event occurs in relation to a person after the course start date, paragraph (8) applies for the purposes of determining whether the person falls within a prescribed category on the first day of the relevant academic year.
 - (8) The person is, for the purposes of determining whether they satisfy any requirement in Part 2 of the Schedule that they are ordinarily resident in the United Kingdom on the course start date, to be treated as if the person was, on the course start date, lawfully residing in the place where the person was residing on that date.
 - (9) For the purposes of this regulation—
 - “protected category” means any category of persons described in paragraph 5, 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H or 6 of Part 2 of the Schedule;
 - “protected category event” means an event specified in regulation 6(2)(b), (i), (j), (k), (l), (m) or (n);
 - “relevant academic year” means an academic year beginning on or after 1st September 2023;
 - “settled category” means any category of persons described in paragraph 3A or 9A of Part 2 of the Schedule.”.

Amendments relating to family members of persons granted leave under one of the Afghan Schemes or one of the Ukraine Schemes

106. In regulation 2 (interpretation) (as amended by regulations 100 and 103 of these Regulations)—

- (a) in paragraph (bbab) (definition of “person granted leave under the Afghan Citizens Resettlement Scheme”)—
 - (i) at the end of paragraph (i)(aa), for “or” substitute “and”;
 - (ii) omit paragraph (i)(bb) (including “and” at the end);
- (b) in the definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme”—
 - (i) at the end of paragraph (a)(ii), insert “or”;
 - (ii) at the end of paragraph (a)(iii), for “or” substitute “and”;
 - (iii) omit paragraph (a)(iv).

107. In regulation 6(2) (qualifying person: effect of event during academic year)(9)—

- (a) in sub-paragraph (m), after “the student” insert “or the student’s spouse, civil partner or parent”;
- (b) in sub-paragraph (n), after “the student” insert “or the student’s spouse, civil partner or parent”.

(9) Sub-paragraph (m) was inserted by [S.I. 2021/1348](#) and amended by [S.I. 2022/57](#). Sub-paragraph (n) was inserted by [S.I. 2022/534](#).

108. In Part 2 of the Schedule (qualifying persons: categories)—

(a) in paragraph 5F (as amended by regulation 104(8) of these Regulations)—

(i) for the heading substitute—

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

(ii) the existing text becomes sub-paragraph (1);

(iii) after that sub-paragraph insert—

“(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 the United Kingdom on the course start date.

(3) A person who—

(a) is—

(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 the United Kingdom 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 5H (including the heading)(10) substitute—

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

5H.—(1) A person granted leave under one of the Ukraine Schemes, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person who—

(10) Paragraph 5H was inserted by [S.I. 2022/534](#).

- (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 the United Kingdom 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 the United Kingdom 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.”.

SECTION 4

Courses

Exceptions: training courses for further education teachers

109. In regulation 5(2A)(a) (qualifying persons: exceptions)(**11**), for the words from “a course” to “Postgraduate Certificate in Education” substitute “a course falling within regulation 2(1ZA)(e), (f), (g), (h) or (i) of the Education (Student Support) Regulations 2011”.

(11) Paragraph (2A) was inserted by [S.I. 2021/1348](#).