STATUTORY INSTRUMENTS

2018 No. 137

EDUCATION, ENGLAND

The Education (Student Fees, Awards and Support) (Amendment) Regulations 2018

Made - - - -	*5th February 2018*
Laid before Parliament	*6th February 2018*
Coming into force - -	*27th February 2018*

The Secretary of State, in exercise of the powers conferred by sections 1 and 2 of the Education (Fees and Awards) Act 1983(**1**), sections 22 and 42(6) of the Teaching and Higher Education Act 1998(**2**) and sections 24(6) and 47 of the Higher Education Act 2004(**3**), makes the following Regulations:

PART 1

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Student Fees, Awards and Support) (Amendment) Regulations 2018.

(**1**) 1983 c. 40. Section 1 was amended by: paragraph 91 of Part 2 of Schedule 12 to the Education Reform Act 1988 (c. 40); paragraph 19 of Part 1 of Schedule 8 to the Further and Higher Education Act 1992 (c. 13); paragraph 8 of Schedule 9 to the Further and Higher Education (Scotland) Act 1992 (c. 37); paragraph 7 of Schedule 2 to the Education Act 1994 (c. 30); paragraph 57 of Schedule 37 to the Education Act 1996 (c. 56); paragraph 5 of Schedule 3 to the Teaching and Higher Education Act 1998 (c. 30); paragraph 11 of Schedule 9 to the Learning and Skills Act 2000 (c. 21); paragraph 5 of Schedule 21, and Part 3 of Schedule 22, to the Education Act 2002 (c. 32); paragraph 9 of Schedule 14 to the Education Act 2005 (c. 18); paragraph 5 of Schedule 5, and paragraph 5 of Schedule 16, to the Education Act 2011 (c. 21); paragraph 33 of Part 2 of Schedule 14 to the Deregulation Act 2015 (c. 20); S.I. 2005/3238, 2010/1080 and 2010/1158. Section 2 was amended by Schedule 4 to the Teaching and Higher Education Act 1998.

(**2**) 1998 c. 30. Section 22 was amended by: section 146(2) of, and Schedule 11 to, the Learning and Skills Act 2000 (c. 21); paragraph 236 of Part 2 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1); section 147(3) of the Finance Act 2003 (c. 14); sections 42(1) and 43(2) and (3) of, and Schedule 7 to, the Higher Education Act 2004 (c. 8); section 257(2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22); section 76(1) and (2)(a) of the Education Act 2011; and S.I. 2013/1881. Section 22 is also amended by section 86(2) to (7) of the Higher Education and Research Act 2017 (c. 29) but those amendments are not yet in force. Section 43(1) of the Teaching and Higher Education Act 1998 defines "prescribed" and "regulations".

(**3**) 2004 c. 8. Section 24(6) was amended by paragraph 26 of Schedule 4 to the Education Act 2005 and paragraph 20(1) and (4) of Schedule 5 to the Education Act 2011. Section 24(6) is repealed by paragraph 30(2) of Schedule 11 to the Higher Education and Research Act 2017 but that repeal is not yet in force. Section 47 is amended by paragraph 30(3) of Schedule 11 to the Higher Education and Research Act 2017 but those amendments are not yet in force.

(2) These Regulations come into force on 27th February 2018 and, subject to paragraphs (3) and (4), apply from that date.

(3) Regulations 3, 5, 6, 8, 11 and 13 apply in relation to the provision of support to students in relation to an academic year which begins on or after 1st August 2018 whether anything done under these Regulations is done before, on or after that date.

(4) Regulations 7, 12, 14 and 16 to 18 apply in relation to the provision of support to students in relation to a course which begins on or after 1st August 2018 whether anything done under these Regulations is done before, on or after that date.

(5) In paragraph (3), "academic year" means the period of twelve months beginning with 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins according to whether the academic year begins, respectively—

(a) on or after 1st January and before 1st April;

(b) on or after 1st April and before 1st July;

(c) on or after 1st July and before 1st August; or

(d) on or after 1st August and on or before 31st December.

PART 2

AMENDMENT OF THE EDUCATION (STUDENT SUPPORT) REGULATIONS 2011

Amendment of the Education (Student Support) Regulations 2011

2. The Education (Student Support) Regulations 2011(**4**) are amended in accordance with regulations 3 to 9.

Amendments relating to support available to members of the armed forces and their families and dependants

3.—(1) In regulation 13(**5**) (miscellaneous), after paragraph (6), insert—

"(6A) For the purposes of paragraph (6), 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,

(b) A's spouse or civil partner,

(c) A's parent, or

(d) 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.".

(2) In regulation 40(**6**) (qualifying conditions for the disabled students' allowance), after paragraph (2), insert—

(**4**) S.I. 2011/1986, amended by S.I. 2012/1653, 2013/235, 2013/630, 2013/1728, 2013/3106, 2014/1766, 2014/2103, 2014/2765, 2015/1951, 2016/211, 2016/270, 2016/584, 2017/52, 2017/114, 2017/204 and S.I. 2018/136.
(**5**) Regulation 13 was amended by S.I. 2012/1653, 2014/2765, 2017/114 and 2018/136.
(**6**) Regulation 40 was substituted by S.I. 2014/2765.

"(2A) For the purposes of paragraph (2), 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,

(b) A's spouse or civil partner,

(c) A's parent, or

(d) 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.".

(3) In regulation 144(**7**) (fee support for designated part-time courses beginning on or after 1st September 2012), after paragraph (3), insert—

"(3ZA) For the purposes of paragraph (3)(b), 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,

(b) A's spouse or civil partner,

(c) A's parent, or

(d) 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.".

Amendments relating to availability of support to students with previous study

4.—(1) In regulation 19(**8**) (availability of fee loans to current system students – general)—

(a) in paragraph (3A), for "(3D)", substitute "(3E)";

(b) for paragraph (3D), substitute—

"(3D) Paragraphs (3B) and (3C) do not apply if the Secretary of State considers that there are exceptional circumstances.";

(c) after paragraph (3D), insert—

"(3E) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for a fee loan in respect of one or more academic years of the current course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.";

(d) in paragraph (9A), for "(9D)", substitute "(9E)";

(e) for paragraph (9D), substitute—

"(9D) Paragraphs (9B) and (9C) do not apply if the Secretary of State considers that there are exceptional circumstances.";

(f) after paragraph (9D), insert—

"(9E) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for

(**7**) Regulation 144 was amended by S.I. 2012/1653, 2014/2765 and 2017/114.
(**8**) Regulation 19 was amended by S.I. 2013/1728, 2014/2765, 2015/1951 and 2017/114.

a fee loan in respect of one or more academic years of the current course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.".

(2) In regulation 69(**9**) (qualifying conditions for the loan for living costs – current system students)—

(a) in paragraph (2B), for "(2E)", substitute "(2F)";

(b) for paragraph (2E), substitute—

"(2E) Paragraphs (2C) and (2D) do not apply if the Secretary of State considers that there are exceptional circumstances.";

(c) after paragraph (2E), insert—

"(2F) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for a loan for living costs in respect of one or more academic years of the current course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.".

(3) In regulation 141(**10**) (assistance for part-time courses in respect of courses beginning before 1st September 2012)—

(a) in paragraph (9), for "(12)", substitute "(12A)";

(b) for paragraph (12), substitute—

"(12) Paragraphs (10) and (11) do not apply if the Secretary of State considers that there are exceptional circumstances.";

(c) after paragraph (12), insert—

"(12A) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for support under this regulation in respect of one or more academic years of the current part-time course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.".

(4) In regulation 144 (fee support for designated part-time courses beginning on or after 1st September 2012)—

(a) in paragraph (9), for "(12)", substitute "(12A)";

(b) for paragraph (12), substitute—

"(12) Paragraphs (10) and (11) do not apply if the Secretary of State considers that there are exceptional circumstances.";

(c) after paragraph (12), insert—

"(12A) Where the Secretary of State considers that there are exceptional circumstances, the Secretary of State may determine that the student should qualify for support under this regulation in respect of one or more academic years of the current part-time course, as appropriate, whether or not the student has completed those academic years prior to the Secretary of State making the determination.".

Amendments relating to new payment rates for student support

5.—(1) In regulation 23(6A)(b)(**11**) and (6B)(b)(**12**) (amount of the fee loan)—

(**9**) Regulation 69 was amended by S.I. 2013/1728, 2014/2765, 2015/1951, 2016/270, 2017/114 and 2018/136.
(**10**) Regulation 141 was amended by S.I. 2012/1653, 2014/2765 and 2017/114.
(**11**) Paragraph (6A) of regulation 23 was inserted by S.I. 2013/1728 and sub-paragraph (b) of that paragraph was subsequently amended by S.I. 2017/114.

(a) omit "or Wales";

(b) for ", (4A), (5ZA) or (5ZB)", substitute "or (4A)".

(2) Schedule 1 to these Regulations has effect to substitute the figure in the third column of the table for the figure in the second column where that figure appears in the provision of the Education (Student Support) Regulations 2011 set out in the first column.

Amendments relating to designated distance learning courses

6.—(1) In regulation 2(1) (interpretation)—

(a) omit the following definitions—

(i) "current distance learning course";

(ii) "designated distance learning course";

(iii) "eligible distance learning student";

(b) in the definition of "end-on course"(**13**)—

(i) in paragraph (d), omit "or designated distance learning course";

(ii) in paragraph (f), omit from "a designated" to "Schedule 2 or";

(c) in the definition of "period of eligibility", omit "in regulation 123 in relation to an eligible distance learning student,".

(2) In regulation 4(**14**) (eligible students)—

(a) omit paragraph (7)(b);

(b) in paragraphs (12)(a)(i) and (13)(a)(i), omit—

(i) ", designated distance learning course";

(ii) ", eligible distance learning student".

(3) In regulation 5(**15**) (designated courses)—

(a) in the opening words of paragraph (1), omit "(3),";

(b) in paragraph (1)(b)(i), omit "subject to paragraph (3),";

(c) omit paragraphs (3) and (3A).

(4) In regulation 12(1)(**16**) (previous course), in sub-paragraphs (a) and (b)(iii), for "a designated", substitute "a full-time".

(5) Omit Part 10 (support for designated distance learning courses).

(6) In regulation 137(**17**) (eligible part-time students)—

(a) in paragraphs (10)(a) and (11)(a)—

(i) omit ", designated distance learning course";

(ii) for ", eligible student or eligible distance learning student", substitute "or eligible student";

(b) omit paragraph (13)(c).

(7) In regulation 139(1)(**18**) (designated part-time courses)—

(**12**) Paragraph (6B) of regulation 23 was inserted by S.I. 2013/1728 and sub-paragraph (b) of that paragraph was subsequently amended by S.I. 2017/114.
(**13**) The definition of "end-on course" was amended by S.I. 2012/1653 and 2015/1951.
(**14**) Regulation 4 was amended by S.I. 2015/1951, 2017/114 and 2018/136.
(**15**) Regulation 5 was amended by S.I. 2013/1728, 2013/3106, 2014/2765, 2015/1951, 2017/114 and 2018/136.
(**16**) Regulation 12(1) was amended by S.I. 2014/2765.
(**17**) Regulation 137 was amended by S.I. 2015/1951 and 2017/114.
(**18**) Regulation 139(1) was amended by S.I. 2014/2765.