STATUTORY INSTRUMENTS

2017 No. 1189

EDUCATION, ENGLAND

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

Made - - - -	*30th November 2017*
Laid before Parliament	*4th December 2017*
Coming into force - -	*1st April 2018*

The Secretary of State, in exercise of the powers conferred by section 10(1), (4)(b) and (6) and section 119(3) and 119(5) of the Higher Education and Research Act 2017 [F1], makes the following Regulations.

F1 2017 c.29.

Citation, commencement and application

1. These Regulations may be cited as the Higher Education (Fee Limit Condition) (England) Regulations 2017 and come into force on 1st April 2018, immediately after the coming into force of section 10 of the Higher Education and Research Act 2017.

[F2 1A. These Regulations apply to English higher education providers.**]**

F2 Reg. 1A inserted (25.7.2018) by The Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018 (S.I. 2018/903), regs. 1, **13**

Interpretation

2. In these Regulations—

(a) "the Act" means the Higher Education and Research Act 2017;

(b) "academic year" means the period of twelve months beginning on 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 that academic year begins on or after 1st January and before 1st April, on or after 1st April and before 1st July, on or after 1st July and before 1st August or on or after 1st August and before 31st December, respectively;

[[F3](ba) "allied health profession subject" means chiropody, a dental profession subject, dietetics, dietetics and nutrition, occupational therapy, orthoptics, orthotics and prosthetics, physiotherapy, podiatry, radiography, radiotherapy or speech and language therapy;

(bb) "dental profession subject" means dental hygiene, dental therapy and dental hygiene or dental therapy;

["person granted indefinite leave to remain as a bereaved partner" means a person—

[F4](bbza) (i) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—

(aa) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved partners);

(bb) paragraph 295N, as a person in relation to whom the requirements in paragraph 295M of those rules are met (bereaved partners);

(cc) paragraph D-BPILR.1.1 of Appendix FM (bereaved partners); or

(dd) paragraph 36 of Appendix Armed Forces (bereaved partner of a member of HM Forces); and

(ii) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave;**]**

["person granted indefinite leave to remain as a victim of domestic violence or domestic

[F5](bba) abuse" means a person—

(i) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—

(aa) paragraph 289B (victims of domestic violence);

(bb) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse); or

(cc) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces); and

(ii) who has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave;**]**

["person granted leave under one of the Afghan Schemes" means a person granted leave

[F6](bbaa) under the Afghan Citizens Resettlement Scheme or a person granted leave under the Afghan Relocations and Assistance Policy Scheme;

(bbab) "person granted leave under the Afghan Citizens Resettlement Scheme" means a person—

(i) who has—

(aa) indefinite leave to enter or remain in the United Kingdom, outside the immigration rules as defined in section 33(1) of the Immigration Act 1971, on the basis of the Afghan Citizens Resettlement Scheme; or

(bb) indefinite leave to enter or remain in the United Kingdom, outside those rules. as the spouse, civil partner or dependent child of such a person, or dependent child of the spouse or civil partner; and

(ii) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;**]**

["person granted Calais leave" means a person who—

[F7](bbb) (i) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and "leave in line" granted by virtue of being a dependent child

of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971; and

(ii) has been ordinarily resident in the United Kingdom and the Islands since the person was **[**F8granted such leave to remain**]**;**]**

(bbc) **[**F9"person granted leave under the Afghan Relocations and Assistance **[**F10Policy**]** Scheme" means a person—

(a) who has —

(i) indefinite leave to enter the United Kingdom under paragraph 276BA2 of or has indefinite leave to remain under paragraph 276BS2 of the Immigration Rules, having been relocated to the United Kingdom pursuant to paragraph **[**F11276BB1(iii)(a)**]** of the Immigration Rules as defined in section 33(1) of the Immigration Act 1971;

(ii) leave to enter the United Kingdom on the basis of the Afghan Relocations and Assistance **[**F10Policy**]** Scheme;

(iii) indefinite leave to enter or remain in the United Kingdom, outside those rules, on the basis of the Afghan Relocations and Assistance **[**F10Policy**]** Scheme; or

(iv) leave to enter or indefinite leave to enter the United Kingdom as the spouse, civil partner or dependent child of such a person, or dependent child of the spouse or civil partner, having been granted that leave under paragraph **[**F12276BJ2 or 276BO2**]** of those rules;

(b) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;**]**

(bc) "pre-registration course" means an education and training programme leading to a qualification, the standard of which is not higher than a first degree course and which qualification is a condition of inclusion in the register (or, as the case may be, the relevant part or parts of the register) maintained by—

(i) the Health and Care Professions Council, for operating department practice and allied health profession subjects other than dental profession subjects;

(ii) the Nursing and Midwifery Council, for midwifery or nursing;

(iii) the General Dental Council, for dental profession subjects;

(iv) the Health and Care Professions Council and the Nursing and Midwifery Council, for nursing and social work;**]**

(c) "register" means the register maintained by the Office for Students under section 3 of the Act; and

(d) "single course" means a course to which regulation 5(8) of the Education (Student Support) Regulations 2011 F13 applies and which falls within the description of a course in that regulation.

F3 Reg. 2(ba)-(bc) inserted (25.7.2018) by The Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018 (S.I. 2018/903), regs. 1, **14**

F4 Reg. 2(bbza) inserted (with application in accordance with reg. 1(4)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 3) Regulations 2020 (S.I. 2020/1203), regs. 1(2), **16(2)**

F5 Reg. 2(bba) inserted (13.2.2020) (with application in accordance with reg. 1(3)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **2(6)(a)**

F6 Reg. 2(bbaa)(bbab) inserted (15.2.2022) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2022 (S.I. 2022/57), regs. 1(1), **26(1)(a)** (with reg. 1(3))
F7 Reg. 2(bbb) inserted (13.2.2020) (with application in accordance with reg. 1(3)(b) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **3(6)(a)**
F8 Words in reg. 2(bbb)(ii) substituted (23.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (No. 3) Regulations 2021 (S.I. 2021/1348), regs. 1(1), **55**
F9 Words in reg. 2 inserted (with application in accordance with reg. 1(3)(c) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) (No. 3) Regulations 2021 (S.I. 2021/1348), regs. 1(1), **51(1)**
F10 Word in reg. 2 inserted (15.2.2022) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2022 (S.I. 2022/57), regs. 1(1), **26(1)(b)(i)** (with reg. 1(3))
F11 Word in reg. 2 substituted (15.2.2022) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2022 (S.I. 2022/57), regs. 1(1), **26(1)(b)(ii)** (with reg. 1(3))
F12 Words in reg. 2 substituted (15.2.2022) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2022 (S.I. 2022/57), regs. 1(1), **26(1)(b)(iii)** (with reg. 1(3))
F13 S.I, 2011/1986.

Prescribed Registered Higher Education Provider

3. A higher education provider registered in the 'Approved (fee cap)' part of the register is prescribed for the purposes of section 10(1) of the Act.

Qualifying Person

4.—(1) Subject to **[**F14paragraphs (3) and (6)**]** and regulations 5 and 6, a qualifying person is a person who falls within a prescribed category on the first day of an academic year which commences on or after 1st September 2019.

(2) Paragraph (1) includes a person who undertakes a qualifying course in an academic year which began before the date in that paragraph but who nevertheless falls within a prescribed category on the first day of an academic year commencing on or after that date.

(3) Paragraph (1) does not apply to a person ineligible for support by reason of regulations 4(3)(c), (d), (e), (f) or (g), 4(4), 137(3) and 137(4) of the Education (Student Support) Regulations 2011.

[F15(4) In this regulation, subject to paragraph (6), "prescribed category" means any category of persons described—

(a) in paragraphs 3, 3A, 4, 5, 5A, 5B, 5C, 5D, 5E, **[**F16 5F,**]** 6, 7A, 8A, 9A, 10A, 10B, **[**F17 10BA,**]** 10C, 10D, 10E, 11A, 12A, 13A and 14 in Part 2 of the Schedule; or

(b) in paragraphs 7, 8, 9, 10, 11, 12 and 13 in Part 2 of the Schedule, where paragraph (5) applies.

(5) This paragraph applies where—

(a) in connection with a qualifying course beginning before 1st August 2021, a person ("A") was a qualifying person by virtue of falling within any category of persons described in paragraphs 7, 8, 9, 10, 11, 12 and 13 in Part 2 of the Schedule in relation to an academic year beginning before 1st August 2021; and

(b) A is undertaking an academic year of that qualifying course, or of a qualifying course to which A transfers from that qualifying course.**]**

[F18(6) In relation to a qualifying course which begins on or after 1st January 2028, paragraph (4) has effect as if sub-paragraph (a) did not mention paragraphs **[**F19 9A, 10B, 10BA and 10E**]** in Part 2 of the Schedule.**]**

F14 Words in reg. 4(1) substituted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **59(a)**
F15 Reg. 4(4)(5) substituted for reg. 4(4) (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **59(b)**
F16 Word in reg. 4(4)(a) inserted (with application in accordance with reg. 1(3)(c) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) (No. 3) Regulations 2021 (S.I. 2021/1348), regs. 1(1), **51(2)**
F17 Word in reg. 4(4)(a) inserted (1.9.2021) by The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/929), regs. 1(1), **29(1)(a)**
F18 Reg. 4(6) inserted (1.3.2021) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 (S.I. 2021/127), regs. 1(1), **59(c)**
F19 Words in reg. 4(6) substituted (23.12.2021) by The Education (Student Fees, Awards and Support) (Amendment) (No. 3) Regulations 2021 (S.I. 2021/1348), regs. 1(1), **52**

Qualifying person: exceptions

5.—(1) A person is not a qualifying person if—

(a) the person holds a higher education qualification; and

(b) the qualifying course leads to a qualification which is an equivalent or lower qualification.

(2) But paragraph (1) does not apply—

(a) where—

(i) the qualifying course is a course for the initial training of teachers [F20]...;

(ii) the duration of a full-time course does not exceed two years; or

(iii) the duration of a part-time course does not exceed four years; and

(iv) the qualifying person is not a qualified teacher; or

(b) in respect of any part of a single course where—

(i) the single course leads to an honours degree being conferred on the qualifying person from an institution in the United Kingdom before the final degree or equivalent qualification; and

(ii) the qualifying person only has an honours degree which was received as part of that single course; or

(c) where the qualifying course is a foundation degree.

[[F21](2A) Paragraph (2)(a) does not apply where—

(a) the current course is a course for the initial training of teachers in further education which has content equivalent to a Diploma in Education and Training, a Professional Graduate Certificate in Education or a Postgraduate Certificate in Education; and

(b) the student already holds qualified teacher learning and skills status.**]**

(3) In this regulation—

(a) Subject to paragraphs (3)(b) to (3)(e) "equivalent or lower qualification" has the meaning given in regulation 2 of the Education (Student Support) Regulations 2011;

(b) but a qualification is not an equivalent or lower qualification where it relates to a part-time course—

(i) which is a course in **[**[F22]engineering and technology or computing**]** (or a combination of those subjects);

(ii) which leads to an honours degree; and