STATUTORY INSTRUMENTS

2017 No. 114

EDUCATION, ENGLAND

The Education (Student Fees, Awards and Support) (Amendment) Regulations 2017

Made - - - -	*7th February 2017*
Laid before Parliament	*9th February 2017*
Coming into force - -	*3rd March 2017*

The Secretary of State for Education, in exercise of the powers conferred by sections 1 and 2 of the Education (Fees and Awards) Act 1983(**1**), sections 22, 42(6) and 43(1) 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:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Student Fees, Awards and Support) (Amendment) Regulations 2017.

(**1**) 1983 c.40. Section 1 was amended by the Education Reform Act 1988 (c. 40), sections 231, 235, 237 and Schedule 12, paragraph 91; the Further and Higher Education Act 1992 (c. 13), section 93 and Schedule 8, paragraph 19; the Further and Higher Education (Scotland) Act 1992 (c. 37), Schedule 9, paragraph 8; the Education Act 1994 (c. 30), section 24 and Schedule 2, paragraph 7; the Education Act 1996 (c. 56), section 582(1) and Schedule 37, paragraph 57; the Teaching and Higher Education Act 1998 (c. 30), Schedule 3, paragraph 5; the Learning and Skills Act 2000 (c. 21), section 149 and Schedule 9, paragraph 11; the Education Act 2002 (c. 32), section 215 and Schedule 22, paragraph 1; the Education Act 2005 (c.18), section 98 and Schedule 14, paragraph 9; the National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), Schedule 1, paragraph 9; the Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), article 2 and Schedule 1, paragraph 12; the Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), article 5 and Schedule 2, paragraph 1; the Education Act 2011 (c. 21), Schedule 5, paragraph 5 and Schedule 16, paragraph 5 and the Deregulation Act 2015 (c. 20), Schedule 14, paragraph 33. Section 2 was amended by the Teaching and Higher Education Act 1998 (c. 30), section 44 and Schedule 4, paragraph 1.

(**2**) 1998 c.30. Section 22 was amended by the Learning and Skills Act 2000 (c. 21), section 146 and Schedule 11, paragraph 1; the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, paragraph 236; the Finance Act 2003 (c.14), section 147; the Higher Education Act 2004 (c. 8), sections 42, 43 and Schedule 7, paragraph 1; the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 257; the Education Act 2011 (c. 21), section 76 and the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013 (S.I. 2013/1881), Schedule 1, paragraph 6. Section 42 was amended by the Education Act 2002 (c. 32), Schedule 12, paragraph 9; the Finance Act 2003, section 147; the Higher Education Act 2004 (c. 8), Schedule 6, paragraph 9; and the Education Act 2011 (c. 21), section 76, Schedule 2, paragraph 15. Section 43 was amended by the Education Act 2002 (c. 32), Schedule 12, paragraph 10 and the Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), Schedule 2, paragraph 9. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of "prescribed" and "regulations".

(**3**) 2004 c. 8. Section 24 was amended by the Education Act 2005 (c. 18), section 98 and Schedule 14, paragraph 26 and the Education Act 2011 (c.21), Schedule 5, paragraph 20.

(2) This regulation and regulations 2, 11, 12(b)(i), 15(a), 15(b)(i), 18(b), 24, 25, 28, 29, 30, 31, 32 and 37(b) come into force on 3rd March 2017.

(3) Subject to paragraphs (4) and (5), all other provisions of these Regulations—

(a) come into force on 3rd March 2017; and

(b) apply in relation to the provision of support to students in relation to an academic year which begins on or after 1st August 2017 whether anything done under these Regulations is done before, on or after 1st August 2017.

(4) Regulation 3(c) does not apply in relation to a person who—

(a) has transferred to the current course from a course beginning before 1st September 2012 pursuant to regulation 7 of the Education (Student Support) Regulations 2011(**4**) from a course that is not a distance learning course; or

(b) begins an Erasmus year before 1st August 2017.

(5) Regulations 33 to 37(a) do not apply in relation to an applicant—

(a) who—

(i) before the date on which these Regulations come into force has been determined by the Secretary of State to be an eligible student falling within paragraph 10 of Part 2 of Schedule 1 to the Education (Student Support) (European University Institute) Regulations 2010(**5**); and

(ii) on or after that date makes an application for support under the Education (Student Support) (European University Institute) Regulations 2010 on the basis of that determination in relation to an academic year which begins on or after 1st August 2017; or

(b) who would have fallen to be determined as eligible within paragraph 10 of Part 2 of Schedule 1 to the Education (Student Support) (European University Institute) Regulations 2010 had they made an application for support before the coming into force of these Regulations in relation to an academic year beginning before 1st August 2017.

(6) In these Regulations—

"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 on or before 31st December, respectively;

"current course" means the designated course in respect of which a person is applying for support;

"distance learning course" means a course on which a student undertaking the course is not required to be in attendance by the institution providing the course, where "required to be in attendance" is not satisfied by a requirement imposed by the institution to attend any institution —

(a) for the purposes of registration or enrolment or any examination;

(b) on a weekend or during any vacation; or

(c) on an occasional basis during the week.

(**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 and 2016/584.
(**5**) S.I. 2010/447, amended by S.I. 2011/83, 2011/2430, 2012/3059, 2013/630, 2013/1728 and 2016/211.

Amendment of the Education (Student Support) Regulations 2011

2. The Education (Student Support) Regulations 2011 are amended in accordance with regulations 3 to 27.

3. In regulation 2(1) (Interpretation)—

(a) after the definition of "accelerated course", insert—

> ""allied health profession subject" means chiropody, dietetics, dietetics and nutrition, occupational therapy, orthoptics, orthotics and prosthetics, physiotherapy, podiatry, radiography, radiotherapy, and speech and language therapy;";

(b) for the definition of "bursary year", substitute—

> ""bursary year" means an academic year of a course in relation to which the student is—
>
> (a) eligible to apply for a healthcare bursary the amount of which is calculated by reference to income whether or not the calculation results in a nil amount;
>
> (b) eligible to apply for a Scottish healthcare allowance the amount of which is calculated by reference to income whether or not the calculation results in a nil amount; or
>
> (c) eligible for a healthcare tuition payment;";

(c) in the definition of "Erasmus year"—

(i) in sub-paragraph (b), omit "or Scotland";

(ii) in sub-paragraph (c), for "or Wales", substitute ", Scotland or Wales";

(d) for the definition of "healthcare bursary", substitute—

> ""healthcare bursary" means a bursary or award of similar description under—
>
> (a) section 63 of the Health Services and Public Health Act 1968(**6**) made in respect of—
>
> (i) a course provided by an institution in England beginning before 1st August 2017;
>
> (ii) a course provided by an institution in England beginning on or after 1st August 2017, where that course leads to qualification as a paramedic, medical doctor or dentist;
>
> (iii) a course provided by an institution in Scotland or Northern Ireland, where that course leads to qualification as a medical doctor or dentist;
>
> (iv) a course provided by an institution in Wales; or

(**6**) 1968 c. 46. Section 63 was amended by the National Health Service (Scotland) Act 1972 (c.58), Schedule 7, the National Health Service Reorganisation Act 1973 (c.32), Schedules 4 and 5, the National Health Service Act 1977 (c.49), Schedules 15 and 16, the National Health Service (Scotland) Act 1978 (c.29), Schedules 16 and 17, the Local Government Act 1985 (c.51), Schedule 17, the Health and Medicines Act 1988 (c.49), sections 20 and 25(2) and Schedule 3, the Local Government (Scotland) Act 1994 (c.39), Schedule 13, the Health Authorities Act 1995 (c.17), Schedule 1, S.I. 1996/1008, the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, the Health Act 1999 (c.8), Schedule 4, the Health and Social Care Act 2001 (c.15), Schedule 5, the National Health Service Reform and Health Care Professions Act 2002 (c.17), Schedules 2, 5 and 9, S.I. 2002/2202, article 4, S.I. 2002/2469, Schedule 1, the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedules 4, 11 and 14, S.I. 2004/288, article 7, the Children Act 2004 (c.31), section 55, S.I. 2004/957, the Schedule, the Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Modifications) (England, Wales and Northern Ireland) Order 2006/1056, Schedule 1, the National Health Service Consequential Provisions) Act 2006 (c.43), Schedule 1, S.I. 2006/1056 and S.I. 2007/961, Schedule 1, the Health Act 2009, Schedule 1, the Health and Social Care Act 2012 (c.7), Schedule 5, the Care Act 2014 (c.23), section 97 and S.I. 2016/413.

(b) article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972(**7**);";

(e) after the definition of "healthcare bursary", insert—

""healthcare tuition payment" means a payment for tuition in connection with the NHS Bursary Scheme in England, established pursuant to section 63 of the Health Services and Public Health Act 1968, in respect of a course beginning on or after 1st August 2017, except where that course leads to qualification as a medical doctor or dentist;";

(f) after the definition of "maintained school", insert—

""non-regulated institution" means an institution in Wales that does not have a fee and access plan in force approved by the Higher Education Funding Council for Wales under section 7 of the Higher Education (Wales) Act 2015(**8**);";

(g) in the definition of "ordinary duration"—

(i) in sub-paragraph (b), omit "or Scotland";

(ii) in sub-paragraph (c), for "or Wales" substitute ", Scotland or Wales";

(iii) after sub-paragraph (c), insert—

"(d) Erasmus years of a course provided by an institution in Scotland where the course began on or after 1st September 2012 and where the Erasmus year begins before 1st August 2017;";

(h) after the definition of "preliminary course", insert—

"pre-registration course" means an education and training programme leading to a qualification which is a condition of inclusion in the register (or as the case may be, the relevant part or parts of the register) maintained respectively by the Health and Care Professions Council for allied health profession subjects and operating department practice, the Nursing and Midwifery Council for midwifery or nursing, or the Health and Care Professions Council and Nursing and Midwifery Council for nursing and social work";

(i) after the definition of "refugee", insert—

""regulated institution" means an institution that has a fee and access plan in force approved by the Higher Education Funding Council for Wales under section 7 of the Higher Education (Wales) Act 2015;";

(j) in the definition of "standard academic year"—

(i) in sub-paragraph (b), omit "or Scotland";

(ii) in sub-paragraph (c), for "or Wales" substitute ", Scotland or Wales";

(iii) after sub-paragraph (c), insert—

"(d) an Erasmus year of a course provided by an institution in Scotland where the course began on or after 1st September 2012 and where the Erasmus year begins before 1st August 2017;".

4. In regulation 4(3)(c)(i) (Eligible students), omit "A's ".

5. In regulation 5(1)(d) (Designated courses)—

(a) in sub-paragraph (i), after "institution", add "in England, Scotland or Northern Ireland, or in Wales where the course begins before 1st September 2017";

(**7**) S.I. 1972/1265 (N.I. 14).
(**8**) 2015 anaw. 1.

(b) in sub-paragraph (ii), after "authority-funded institution", insert "in England, Scotland or Northern Ireland, or in Wales where the course begins before 1st September 2017";

(c) after sub-paragraph (ii), omit "or";

(d) in sub-paragraph (iii)—

(i) after "authority-funded institution", insert "in England, Scotland or Northern Ireland, or in Wales where the course begins before 1st September 2017,";

(ii) after the semi-colon, insert "or";

(e) after sub-paragraph (iii), insert—

"(iv) provided by a regulated institution in Wales or a regulated institution in Wales in conjunction with an institution which is situated outside the United Kingdom, where that course begins on or after 1st September 2017;".

6. In regulation 12 (Previous course), after paragraph (4), insert—

"(4A) A course which would otherwise be a previous course is not treated as such if the current course—

(a) is a pre-registration course in an allied health profession subject, midwifery, nursing, nursing and social work, or operating department practice;

(b) leads to an ordinary degree, honours degree, or, in respect of a course in operating department practice, to an ordinary degree, honours degree or a diploma; and

(c) begins on or after 1st August 2017.".

7. In regulation 13 (Miscellaneous)—

(a) after paragraph (2), insert—

"(2A) Paragraph (1) does not apply where the current course—

(a) is a pre-registration course in an allied health profession subject, midwifery, nursing, nursing and social work or operating department practice;

(b) leads to an ordinary degree, honours degree, or, in respect of a course in operating department practice, to an ordinary degree, honours degree or a diploma; and

(c) begins on or after 1st August 2017.";

(b) after paragraph (7), insert—

"(8) Paragraphs (6) and (7) do not apply to a person who is treated as being ordinarily resident in the United Kingdom by virtue of paragraph 1(4) of Schedule 1 on the basis of temporary employment falling within paragraph 1(5)(a) of that Schedule.".

8. In regulation 19 (Availability of fee loans to current system students)—

(a) in paragraph (2)(b), omit "or Scotland";

(b) in paragraph (2)(c), for "or Wales", insert ", Wales or Scotland";

(c) in paragraph (8)(b), omit "or Scotland";

(d) in paragraph (8)(c), for "or Wales", insert ", Wales or Scotland";

(e) in paragraph (9)(b), omit "or Scotland";

(f) in paragraph (9)(c), for "or Wales", insert ", Wales or Scotland".

9. In regulation 23 (Amount of the fee loan)—

(a) in paragraph (3)(b)(ii), after "institution", insert "in England";

(b) in paragraph (4)—