***Changes to legislation:*** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Postgraduate Master's Degree Loans) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

# 2016 No. 606

# EDUCATION, ENGLAND

## The Education (Postgraduate Master's Degree Loans) Regulations 2016

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| *Made - - - -* | *24th May 2016* |
| *Laid before Parliament* | *26th May 2016* |
| *Coming into force - -* | *16th June 2016* |

The Secretary of State for Business, Innovation and Skills makes the following Regulations in exercise of the powers conferred by sections 22 and 42(6) of the Teaching and Higher Education Act 1998 [F1]:

**F1** 1998 c.30. Section 22 was amended by the Learning and Skills Act 2000 (c.21), section 146 and Schedule 11, the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, the Finance Act 2003 (c.14), section 147 the Higher Education Act 2004 (c.8), sections 42 and 43 and Schedule 7 and the Apprentices, Skills, Children and Learning Act 2009 (c.22), section 257(1) and (2). See section 43(1) of the 1998 Act for the definition of "prescribed" and "regulations".

### Citation, commencement, extent and application

**1.**—(1) These Regulations may be cited as the Education (Postgraduate Master's Degree Loans) Regulations 2016 and come into force on 16th June 2016.

(2) Subject to **[**[F2]paragraph**]** (4), these Regulations apply in relation to England only.

[F3](3) . . . . . .

(4) These Regulations extend to all of the United Kingdom in so far as they impose any obligation or confer any power [F4]... on any [F5]... person in relation to the retention or production of information or records.

(5) These Regulations apply in relation to the provision of a loan to students in relation to a postgraduate master's degree course which begins on or after 1st August 2016 whether anything done under these Regulations is done before, on or after 1st August 2016.

**F2** Word in reg. 1(2) substituted (5.9.2017) by The Repayment of Student Loans and Postgraduate Masters Degree Loans (Amendment) Regulations 2017 (S.I. 2017/831), regs. 1(1), **41(2)(a)**

**F3** Reg. 1(3) omitted (5.9.2017) by virtue of The Repayment of Student Loans and Postgraduate Masters Degree Loans (Amendment) Regulations 2017 (S.I. 2017/831), regs. 1(1), **41(2)(b)**

**F4** Words in reg. 1(4) omitted (5.9.2017) by virtue of The Repayment of Student Loans and Postgraduate Masters Degree Loans (Amendment) Regulations 2017 (S.I. 2017/831), regs. 1(1), **41(2)(c)(i)**

**F5** Word in reg. 1(4) omitted (5.9.2017) by virtue of The Repayment of Student Loans and Postgraduate Masters Degree Loans (Amendment) Regulations 2017 (S.I. 2017/831), regs. 1(1), **41(2)(c)(ii)**

# PART 1

CHAPTER 1

## Interpretation

**2.**—(1) For the purposes of Part 1—

"the 1998 Act" means the Teaching and Higher Education Act 1998;

**[**[F6]"the 2017 Act" means the Higher Education and Research Act 2017;**]**

"academic authority" means, in relation to an institution, the governing body or other body having the functions of a governing body and includes a person acting with the authority of that body;

"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;

"authority-funded" means—

(a) [F7]...

(b) in relation to educational institutions in Wales, maintained or assisted by recurrent grants from the Higher Education Funding Council for Wales;

(c) in relation to educational institutions in Scotland, maintained or assisted by recurrent grants from the Scottish Funding Council; and

(d) in relation to educational institutions in Northern Ireland, maintained or assisted by recurrent grants from the Department for the Economy in Northern Ireland or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

"course" means a taught programme of study, a programme of research, or a combination of both, and which may include one or more periods of work experience, and which leads, on successful completion, to the award of a postgraduate master's degree;

"designated course" means a course designated under regulation 4 or by the Secretary of State under regulation 4(6);

"Directive 2004/38" means Directive 2004/38 of the European Parliament and of the Council of 29th April 2004 [F8] on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

"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;

"electronic signature" is so much of anything in electronic form as—

(a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and

(b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

"eligible prisoner" means a prisoner—

(a) who begins a designated course on or after 1st August 2017;

(b) who is serving a sentence of imprisonment in the United Kingdom;

(c) has been authorised by the prison Governor or Director or other appropriate authority to study the designated course; and

(d) whose earliest release date is within 4 years of the first day of the first academic year of the designated course.

"eligible student" has the meaning given in regulation 3;

**[**F9"English higher education provider" has the meaning given by section 83(1) of the 2017 Act;**]**

"equivalent or higher qualification" means a qualification determined in accordance with paragraph (2) to be an equivalent or higher qualification;

"EU national" means a national of a Member State of the EU;

"fees" has the meaning given in **[**F10section 85(2) of the 2017 Act**]**;

"full-time equivalent" means a full-time course leading to a postgraduate master's degree in the same subject as the part-time course in question;

"healthcare bursary" means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968 F11 or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 F12;

"information" includes documents;

**[**F13 "institution" in relation to England includes an English higher education provider;**]**

"Islands" means the Channel Islands and the Isle of Man;

**[**F14"Northern Irish designated master's degree course" has the meaning given in paragraph (1A);**]**

**[**F15"OfS" means the Office for Students, as established by section 1(1) of the 2017 Act;**]**

"period of eligibility" has the meaning given in regulation 5 in relation to an eligible student;

"periods of work experience" means—

(a) periods of industrial, professional or commercial experience associated with the designated course at an institution, but at a place outside that institution;

(b) periods during which a student is employed and residing in a country whose language is one that the student is studying for that student's designated course (provided that the period of residence in that country is a requirement of that student's course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

**[**F16"person granted Calais leave" means a person who—

(a) 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

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

"person granted humanitarian protection" means a person—

(a) who, on the grounds of humanitarian protection, has been granted leave to remain under the immigration rules as defined in section 33(1) of the Immigration Act 1971 **F17**;

(b) whose leave to remain is extant, or in respect of whose leave to remain an appeal is pending (within section 104 of the Nationality, Immigration and Asylum Act 2002 **F18**; and

(c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave to remain;

**[F19**"person granted indefinite leave to remain as a bereaved partner" means a person—

(a) 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—

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

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

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

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

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

**[F20**"person granted indefinite leave to remain as a victim of domestic violence or domestic abuse" means a person—

(a) 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—

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

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

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

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

**[F21**"person granted section 67 leave" means a person who—

(a) has extant leave to remain as a person granted leave under paragraph 352ZG of the immigration rules, having been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016, or a dependent child of such a person who has been granted "leave in line" under paragraph 352ZO of those rules; and

(b) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course;**]**

**[F22**"person granted stateless leave" means a person who—

(a) has extant leave to remain as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971); and

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

"postgraduate master's degree loan" **[**F23means a loan made by the Secretary of State pursuant to these Regulations, and includes the interest accrued on the loan, and any penalties or charges incurred in connection with it, except for any interest, penalties or charges payable under Part 3 or 4 of the Education (Student Loans) (Repayment) Regulations 2009;**]**

"prisoner" includes a person detained in a young offender institution;

"private institution" means an institution which is not publicly funded;

"public funds" means moneys provided by Parliament or by a government authority outside the United Kingdom;

"publicly funded", unless otherwise indicated, means maintained or assisted by recurrent grants out of public funds and related expressions are to be interpreted accordingly;

"refugee" means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 F24 as extended by the Protocol thereto which entered into force on 4th October 1967 F25;

**[**F26"register" means the register established and maintained by the OfS under section 3 of the 2017 Act;**]**

**[**F27" registered provider" in relation to an institution means an English higher education provider which is registered in the register and "unregistered provider" is to be construed accordingly;**]**

"right of permanent residence" means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

**[**F28"Scottish designated master's degree course" has the meaning given in paragraph (1A);**]**

"student loans legislation" means the student support regulations, the Education (Student Loans) Act 1990 F29, the Education (Student Loans) (Northern Ireland) Order 1990 F30, the Education (Scotland) Act 1980 F31 and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998 F32 and regulations made under that Order or the 1998 Act and regulations made under that Act;

"student support regulations" means the Education (Student Support) Regulations 2011 F33;

"Turkish worker" means a Turkish national who—

(a) is ordinarily resident in the United Kingdom and Islands; and

(b) is, or has been, lawfully employed in the United Kingdom;

**[**F34"Welsh designated master's degree course" has the meaning given in paragraph (1A).**]**

**[**F35(1A) In these Regulations—

"Northern Irish designated master's degree course" means a postgraduate master's degree course substantially provided in Northern Ireland and designated under regulation 152(8) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009 for the purposes of regulation 149 of those Regulations and Article 3 of the Education (Student Support) (Northern Ireland) Order 1998;

"Scottish designated master's degree course" means a postgraduate master's degree course substantially provided in Scotland—