

**2006 No. 482**

**EDUCATION, ENGLAND**

**The Student Fees (Qualifying Courses and Persons) Regulations  
2006**

<i>Made</i> - - - -	<i>26th February 2006</i>
<i>Laid before Parliament</i>	<i>7th March 2006</i>
<i>Coming into force</i> - -	<i>31st March 2006</i>

The Secretary of State for Education and Skills makes the following Regulations, in exercise of the powers conferred by sections 24(6) and 47 of the Higher Education Act 2004 (a).

**Citation, Commencement and Interpretation**

1. These Regulations may be cited as the Student Fees (Qualifying Courses and Persons) Regulations 2006 and come into force on 31st March 2006.

2. In these Regulations—

“the Act” means the Higher Education Act 2004;

“course for the initial training of teachers” includes such a course leading to a first degree;

“European Community” means the territory comprised by the Member States of the European Community as constituted from time to time;

“European Economic Area” means the area comprised by the European Community, the Republic of Iceland, the Kingdom of Norway and the Principality of Lichtenstein;

“public funds” means moneys provided by Parliament;

“publicly-funded” means maintained or assisted by recurrent grants out of public funds;

“qualified teacher” has the meaning given in section 132(1) of the Education Act 2002(b);

“Schedule 1” means Schedule 1 of the Student Support Regulations;

“single course” means a course mentioned in Regulation 5(5) of the Student Support Regulations; and

“the Student Support Regulations” means the Education (Student Support) Regulations 2006(c).

**Revocation**

3. The Education (Fees at Higher Education Institutions) Regulations 1999(d) are revoked to the extent that they have not already been revoked.

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(a) 2004, c. 8; section 24 was amended by the Education Act 2005 (c.18) section 98 and Schedule 14.

(b) 2002; c.32.

(c) S.I. 2006/119

(d) S.I. 1999/603; they were revoked in relation to Wales by S.I. 2005/1860

### **Prescribed description of a qualifying course**

4.—(1) The description of a qualifying course which is prescribed for the purposes of section 24 of the Act is a course which subject to paragraph (3) is a designated course within the meaning of regulation 2(1) of the Student Support Regulations on the first day of an academic year which begins during the grant period and is provided by an institution in England.

(2) For the purposes of paragraph (1) the reference to an institution in England means an institution whose activities are carried on in England.

(3) A course is not a qualifying course if at the time the qualifying person received an offer of a place on that course the institution providing it was not publicly funded.

### **Prescribed description of a qualifying person**

5.—(1) The description of a qualifying person which is prescribed for the purposes of section 24 of the Act is a person who on the first day of an academic year which begins during the grant period falls within the class of persons who subject to paragraph (7) are specified in Part 2 of Schedule 1 other than—

(a) persons who are not eligible for support under the Student Support Regulations by reason of regulation 4(3)(c), (d), (e) or (f) of those regulations, or

(b) a person mentioned in paragraph (2) or (5).

(2) Subject to the exception in paragraphs (3) and (4), a person is not a qualifying person if he has an honours degree from an institution in the United Kingdom which was publicly funded for some or all of the academic years during which the person took the course leading to the award of the honours degree.

(3) Paragraph (2) does not apply where—

(a) the qualifying course is a course for the initial training of teachers;

(b) the duration of the course does not exceed two years (the duration of a part time course being expressed as its full-time equivalent); and

(c) the qualifying person is not a qualified teacher.

(4) Paragraph (2) does not apply in respect of any part of a single course where—

(a) the qualifying course is a single course;

(b) 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

(c) the qualifying person only has an honours degree which was received as part of the single course referred to in sub-paragraph (a).

(5) Where one of the events mentioned in paragraph (6) occurs in the course of an academic year and as a result a person falls within the class of persons mentioned in Part 2 of Schedule 1 he is not a qualifying person in respect of the academic year in which the relevant event occurred or any previous academic year.

(6) The events are —

(a) an area which was not part of the European Community or the European Economic Area has become part of one or both of these areas;

(b) the person acquires the right of permanent residence as defined in Part 1 of Schedule 1; or

(c) the person becomes the child of a Swiss national.

(7) For the purposes of this regulation—

(a) where a person is mentioned in paragraph 5(a) of Schedule 1 they are not required to meet the residence requirement in paragraph 5(c) of that Schedule;

- (b) in paragraph 9(1) of Schedule 1 the requirement that an EC national or a family member of such a national has that status on the first day of the first academic year of the course does not apply to sub-paragraph (1)(a); and
- (c) paragraph 9(1)(b)(ii) of Schedule 1 does not apply.

### **Transitional Cases**

6.—(1) Where a qualifying person, disregarding any intervening vacation, begins an end-on course within the meaning of regulation 2(1) of the Student Support Regulations immediately after a qualifying course (“the relevant course”) in a case where paragraph (3) or (4) applies, the end-on course shall be treated as if the offer for it had been received on the same date as the offer for the relevant course.

(2) In a case where paragraph (3) or (4) applies, where a qualifying person undertakes a qualifying course (“the relevant course”) which is a single course, an offer received for any part of the relevant course shall be treated as if it had been received on the same date as the offer for the first part of the relevant course.

(3) This paragraph applies where —

- (a) the qualifying person had on or before 1 August 2005 received an offer, whether conditional on obtaining specified qualifications or not, of a place on the relevant course, or a similar course, and
- (b) the first academic year of the relevant course begins before 1 September 2007.

(4) This paragraph applies where —

- (a) the qualifying person had received an offer of a place on a qualifying course (whether or not at the same institution as the relevant course) the first academic year of which begins before 1<sup>st</sup> September 2006,
- (b) he was unable to take up the offer because a specified qualification or grade was not awarded to him,
- (c) he appealed against the decision not to award him the qualification or grade,
- (d) the appeal was allowed after the last date on which he could have taken up the offer,
- (e) as a result he was offered a place on the relevant course, and
- (f) the first academic year of the relevant course begins after 31 August 2006 but before 1 September 2007.

(5) For the purpose of paragraph 3(a) a course (“the original course”) is similar to the relevant course if—

- (a) it appears to the governing body of the institution providing the relevant course that the subject matter of the course is in whole or in part the same as the subject matter of the original course, and
- (b) except where the original course is no longer being provided, the relevant course is provided by the institution which was to have provided the original course.

26th February 2006

*Bill Rammell*  
Minister of State  
Department for Education and Skills

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 23 of the Higher Education Act 2004 requires the Secretary of State to impose a condition on grants to the Higher Education Funding Council for England and the Training and Development Agency for Schools, requiring them to impose a condition on financial support given to the governing body of a relevant institution. This condition requires the governing body to secure that the qualifying fees payable in respect of any qualifying course by a qualifying person do not exceed the basic or higher fee amounts applicable to that course. The fee amounts are prescribed by the Student Fees (Amounts) (England) Regulations 2004 S.I. 2004/1932.

These Regulations prescribe the qualifying courses and class of qualifying persons by reference to the Education (Student Support) Regulations 2006. The qualifying courses prescribed by regulation 4 are those courses which are “designated courses” as defined in the Student Support Regulations and provided at institutions in England. The class of qualifying persons prescribed by regulation 5 are those persons who on the first day of the relevant academic year are specified in Part 2 of Schedule 1 to the Student Support Regulations (that is, persons who are eligible for support) other than persons who are not eligible for student support by reason of certain paragraphs of regulation 4 of those Regulations or who already have an honours degree from a publicly funded institution. There is an exception in respect of a previous honours degree for a person who is undertaking a course of initial teacher training or who has obtained the honours degree only as part of a single course they are currently undertaking. Regulation 5 also makes provision in respect of events which may occur during the course of an academic year and bring a person within Part 2 of Schedule 1. Regulation 5(7) disapplies specified parts of Part 2 of the Schedule for the purposes of that Regulation.

Section 25 of the 2004 Act requires that in transitional cases students may not be charged more than the basic amount. Regulation 6 provides that an end-on course and single courses, as defined in the Student Support Regulations, are included in the transitional cases.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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