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STATUTORY INSTRUMENTS

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**2009 No. 1555**

**The Education (Student Support) Regulations 2009**

**PART 10**

**SUPPORT FOR FULL-TIME DISTANCE LEARNING COURSES**

**Eligible distance learning students**

**116.**—(1) An eligible distance learning student qualifies for support in connection with the student undertaking a designated distance learning course subject to and in accordance with this Part.

(2) Subject to paragraph (3), a person is an eligible distance learning student in connection with a designated distance learning course if in assessing the person's application for support the Secretary of State determines that the person falls within one of the categories set out in Part 2 of Schedule 1.

(3) A person ("A") is not an eligible distance learning student if—

(a) subject to paragraph (4), there has been bestowed on, or paid to, A in connection with the distance learning course—

(i) a healthcare bursary whether or not the amount of such bursary is calculated by reference to the person's income; or

(ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007<sup>(1)</sup>;

(b) A is in breach of any obligation to repay any loan;

(c) A has reached the age of 18 and has not ratified any agreement for a loan A made when A was under the age of 18;

(d) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support; or

(e) subject to paragraph (5), A is a prisoner.

(4) Paragraph (3)(a) does not apply if—

(a) the person applying for support is a disabled student; and

(b) there has been bestowed on, or paid, to the person in connection with the distance learning course a health care bursary the amount of which is calculated by reference to the person's income.

(5) Paragraph (3)(e) does not apply in respect of an academic year during which the student enters prison or is released from prison.

(6) For the purposes of paragraphs (3)(b) and (3)(c), "loan" means a loan made under any provision of the student loans legislation.

(7) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(c) only applies if the agreement was made—

- (a) before 25th September 1991; and
  - (b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.
- (8) Subject to paragraphs (11) to (13), if a person satisfies the conditions in paragraph (9) or (10)—
- (a) paragraphs (2) and (3) do not apply to that person; and
  - (b) that person is an eligible distance learning student for the purposes of this Part.
- (9) The conditions in this paragraph are—
- (a) the person qualified as an eligible distance learning student in connection with an earlier academic year of the current designated distance learning course pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
  - (b) the person was not ordinarily resident in Wales on the first day of the current designated distance learning course; and
  - (c) the person's status as an eligible distance learning student has not terminated.
- (10) The conditions in this paragraph are—
- (a) the Secretary of State has previously determined that the person is—
    - (i) an eligible student in connection with a designated course;
    - (ii) an eligible distance learning student in connection with a designated distance learning course other than the current distance learning course; or
    - (iii) an eligible part-time student in connection with a designated part-time course;
  - (b) the person's status as an eligible student, eligible distance learning student or as an eligible part-time student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current designated distance learning course as a result of one or more conversions or transfers in accordance with regulations made by the Secretary of State under section 22 of the 1998 Act;
  - (c) the person was not ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (a); and
  - (d) the person's status as an eligible distance learning student has not terminated.
- (11) Where—
- (a) the Secretary of State determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A") was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which A's status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
  - (b) as at the day before the academic year in respect of which A is applying for support begins, the refugee status of A or of A's spouse, civil partner, parent or step-parent, as the case may be, has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002<sup>(2)</sup>),

A's status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which A is applying for support.

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(2) 2002 c.41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19), Schedules 2 and 4 and the Immigration, Asylum and Nationality Act 2006 (c.13), section 9.

(12) Where—

- (a) the Secretary of State determined that, by virtue of being a person with leave to enter or remain or the spouse, civil partner, child or step-child of such a person, a person (“A”) was an eligible distance learning student in connection with an application for support for an earlier year of the current distance learning course or an application for support in connection with a designated course, designated part-time course or other distance learning course from which A’s status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A’s status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Secretary of State determined that the person was an eligible student or eligible part-time student, as the case may be, before 1st September 2007.

(14) An eligible distance learning student may not, at any one time, qualify for support for—

- (a) more than one designated distance learning course;
- (b) a designated distance learning course and a designated course;
- (c) a designated distance learning course and a designated part-time course;
- (d) a designated distance learning course and a designated postgraduate course.