

2016 No. 270

EDUCATION, ENGLAND

**The Education (Student Support) (Amendment) Regulations
2016**

<i>Made</i> - - - -	<i>2nd March 2016</i>
<i>Laid before Parliament</i>	<i>3rd March 2016</i>
<i>Coming into force</i> - -	<i>25th March 2016</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 22 and 42(6) of the Teaching and Higher Education Act 1998(a):

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Education (Student Support) (Amendment) Regulations 2016 and come into force on 25th March 2016.

(2) In these Regulations “the 2011 Regulations” means the Education (Student Support) Regulations 2011(b).

(3) Subject to paragraph (4), these Regulations apply to the provision of support to students under the 2011 Regulations in relation to an academic year which begins on or after 1st August 2016.

(4) The amendments made by these Regulations do not apply in relation to an applicant—

- (a) who, before the date on which these Regulations come into force, makes an application under the 2011 Regulations to the Secretary of State for support in relation to an academic year which begins on or after 1st August 2016; or
- (b) 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 2011 Regulations; and
 - (ii) on or after that date makes an application for support under the 2011 Regulations on the basis of that determination in relation to an academic year which begins on or after 1st August 2016.

(a) 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, the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) section 257, the Education Act 2011 (c.21) section 76 and S.I. 2013/1881. See section 43(1) of the Teaching and Higher Education Act 1998 for the definition of “prescribed” and “regulations”.

(b) S.I. 2011/1986; amended by S.I. 2012/1653, 2013/235, 2013/630, 2013/1728, 2013/3106, 2014/1766, 2014/2103, 2014/2765 and 2015/1951.

Amendment of the 2011 Regulations

2. The 2011 Regulations are amended in accordance with regulations 3 to 7.
3. In regulation 38(3) (General qualifying conditions for grants for living and other costs), after “paragraph 9” insert “or paragraph 10”.
4. In regulation 69(3)(a) (Qualifying conditions for the loan for living costs – current system students), after “paragraph 9” insert “or paragraph 10”.
5. In regulation 147(2)(a) (Disabled part-time students’ allowance), after “paragraph 9” insert “or paragraph 10”.
6. In Schedule 1, Part 2 (Eligible Students – Categories) after paragraph 10, insert—
 - “**10A.**—(1) A person who—
 - (a) is an EU national other than a United Kingdom national on the first day of the first academic year of the course;
 - (b) is ordinarily resident in England on the first day of the first academic year of the course;
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the five-year period immediately preceding the first day of the first academic year of the course; and
 - (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).
 - (2) Where a state accedes to the EU after the first day of the first academic year of the course and a person is a national of that state, the requirement in paragraph (a) of subparagraph (1) to be an EU national other than a United Kingdom national on the first day of the first academic year of the course is treated as being satisfied.”.

2nd March 2016

Joseph Johnson
Minister of State for Universities and Science
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Support) Regulations 2011 (S.I. 2011/1986) (the “2011 Regulations”).

Regulation 1(3) makes clear that the amendments made by these Regulations to the eligibility criteria for student support for living costs will apply to student support provided in respect of an academic year beginning on or after 1st August 2016.

Regulation 1(4) makes specific provision about applicants to whom these amendments will not apply. These are applicants who apply for support under the 2011 Regulations before the amendments made by these Regulations come into force or who apply after that date, having been determined before that date as being eligible for support. An example of the latter is a student who starts, and is in receipt of support for, a course beginning in an earlier academic year and then

transfers to a different course in an academic year beginning on or after 1st August 2016 and applies for support in respect of that course.

Regulations 3, 4, and 5 amend the 2011 Regulations to make clear that an applicant who is an EU national (but not a UK national) will no longer qualify for support for living costs by demonstrating three years' ordinary residence in the UK immediately preceding the start of the course for which they seek support.

Regulation 6 then introduces a new eligibility criterion for these categories by providing that an applicant who is an EU national (but not a UK national) will have to demonstrate five years' residence in the UK immediately preceding the start of the course for which they seek support in order to be eligible.

An impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.

The Explanatory Memorandum is published alongside the Regulations on www.legislation.gov.uk.

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