
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under the Higher Education and Research Act 2017⁽¹⁾ (“the Act”) apply to registered higher education providers, which by virtue of section 3(3) of the Act means providers which are, or which intend to become, English higher education providers.

These Regulations prescribe:

- registered higher education providers of a certain description for the purposes of section 10(1) of the Act;
- the meaning of “qualifying person” for the purposes of section 10(4) of the Act;
- the meaning of “qualifying course” for the purposes of section 10(6) of the Act.

Definitions used in these Regulations are set out in Regulation 2, save that (i) where a definition applies to one regulation or paragraph of the Schedule only, they are set out in that regulation or Schedule paragraph, and (ii) where a definition applies to a term used only in the Schedule, it is set out in Part 1 of the Schedule. By virtue of section 11 of the Interpretation Act 1978⁽²⁾, words and phrases which have defined meanings in an Act have the same meanings in subordinate legislation such as Regulations unless the context otherwise requires.

The following terms are set out in section 83 of the Act—

- “English higher education provider” means a higher education provider whose activities are carried on, or principally carried on, in England.
- “higher education provider” means an institution which provides higher education;
- “higher education” means education provided by means of a higher education course;
- “higher education course” means a course of any description mentioned in Schedule 6 to the Education Reform Act 1988⁽³⁾; and
- “institution” means any training provider (whether or not the training provider would otherwise be regarded as an institution).

Other relevant definitions are—

- “fees” has the meaning given by section 85(2) of the Act;
- “fee limit condition” means a condition of registration which requires the governing body of the provider to secure that regulated course fees do not exceed the fee limit (section 10(2) of the Act);
- “registered higher education provider” means an institution which is registered in the register (section 3(10) of the Act);
- “register” means the register which the Office for Students must establish and maintain in relation to English higher education providers (section 3(1) of the Act); and
- “regulated course fees” is defined in section 10(3) of the Act.

⁽¹⁾ 2017 c.29.

⁽²⁾ 1978 c.30.

⁽³⁾ 1988 c.40.

Status: This is the original version (as it was originally made).

Regulation 3 prescribes the providers for the purposes of section 10(1) of the Act as those who appear in a specified category in the register. Under section 3(2) of the Act the Office for Students has the power to divide the register into different categories of registration.

Regulations 4, 5 and 6 prescribe the requirements necessary to be a “qualifying person”.

Regulation 7 prescribes the meaning of “qualifying course”.

The Schedule relates to regulation 5 which states that the persons falling within Part 2 of the Schedule (subject to the exceptions in regulations 5(2), 6 and 7) are to be regarded as qualifying persons. Part 1 of the Schedule relates to definitions which apply for the purposes of the Schedule.

The qualifying persons are—

- persons who are settled in the United Kingdom (paragraphs 3 and 4 of the Schedule);
- refugees and their family members (paragraph 5 of the Schedule);
- persons granted humanitarian protection and their family members (paragraph 6 of the Schedule);
- workers, employed persons, self-employed persons and their family members (paragraphs 7 and 8 of the Schedule);
- persons who are settled in the United Kingdom and who have exercised a right of residence elsewhere (paragraph 9 of the Schedule);
- EU nationals (paragraphs 10 and 11 of the Schedule);
- children of Swiss nationals (paragraph 12 of the Schedule);
- children of Turkish workers (paragraph 13 of the Schedule); and
- persons who are qualifying persons by virtue of long residence (paragraph 14 of the Schedule).