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STATUTORY INSTRUMENTS

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**2011 No. 1986**

**The Education (Student Support) Regulations 2011**

**PART 2**

**ELIGIBILITY**

**Eligible students**

4.—(1) An eligible student qualifies for support in connection with a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraph (3), a person is an eligible student in connection with a designated course if in assessing that 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 student if—

- (a) an old award has been bestowed on A in respect of A's attendance on the course;
- (b) A is eligible for a loan in relation to an academic year of the course under the Education (Student Loans) Act 1990 or the Education (Student Loans) (Northern Ireland) Order 1990;
- (c) A is eligible to apply for, in connection with the course,—
  - (i) a healthcare bursary the amount of which is not calculated by reference to A's income; or
  - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(1);
- (d) A is in breach of any obligation to repay any loan;
- (e) A has reached the age of 18 and has not ratified any agreement for a loan made with A when A was under the age of 18;
- (f) A has, in the opinion of the Secretary of State, shown by A's conduct that A is unfitted to receive support; or
- (g) subject to paragraph (4), A is a prisoner.

(4) Paragraph (3)(g) does not apply—

- (a) where the student is an eligible prisoner;
- (b) where the current course began before 1st September 2012;
- (c) where the student has transferred to the current course on or after 1st September 2012 pursuant to regulation 7 from a course beginning before 1st September 2012;
- (d) where the course is an end-on course; or
- (e) in respect of an academic year during which the student enters prison or is released from prison.

- (5) For the purposes of paragraphs (3)(d) and (3)(e), “loan” means a loan made under any provision of the student loans legislation.
- (6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (3)(e) 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.
- (7) An eligible student in respect of whom the first academic year of the specified designated course begins on or after 1st September 2000 does not, at any one time, qualify for support for—
- (a) more than one designated course;
  - (b) a designated course and a designated distance learning course;
  - (c) a designated course and a designated part-time course;
  - (d) a designated course and a designated postgraduate course.
- (8) Subject to paragraphs (12) to (14), if a person satisfies the conditions in paragraph (9), (10) or (11)—
- (a) paragraphs (2) and (3) do not apply to that person and
  - (b) that person is an eligible student for the purposes of these Regulations.
- (9) The conditions are—
- (a) the person qualified as an eligible student in connection with an earlier academic year of the current 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 first academic year of the current course; and
  - (c) the person’s status as an eligible student has not terminated.
- (10) The conditions are—
- (a) the current course is an end-on course (other than one of the kind referred to in paragraph (c) of the definition of “end-on course” in regulation 2) which the person begins on or after 1st September 2006;
  - (b) the person qualified as an eligible student in connection with the course in relation to which the current course is an end-on course;
  - (c) the period of eligibility in respect of the course referred to in sub-paragraph (b) ceased only on the grounds that the student had completed the course; and
  - (d) 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 (b).
- (11) The conditions are—
- (a) the Secretary of State has previously determined that the person is—
    - (i) an eligible part-time student in connection with a designated part-time course;
    - (ii) an eligible distance learning student in connection with a designated distance learning course; or
    - (iii) an eligible student in connection with a designated course other than the current course;
  - (b) the person’s status as an eligible part-time student, as an eligible distance learning student or as an eligible student in connection with the course referred to in sub-paragraph (a) has been converted or transferred from that course to the current 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 student has not terminated.

(12) 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—
  - (i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which A's status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or
  - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A's status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; 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),

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

(13) Where—

- (a) the Secretary of State determined that, by virtue of being a person granted humanitarian protection or the spouse, civil partner, child or step-child of such a person, a person ("A") was—
  - (i) an eligible student in connection with an application for support for an earlier year of the current course, an application for support for a course in relation to which the current course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course or other designated course from which A's status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the current course; or
  - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A's status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; 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 granted humanitarian protection 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 or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.

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