

EXPLANATORY MEMORANDUM TO
THE EDUCATION (STUDENT SUPPORT) (EUROPEAN UNIVERSITY
INSTITUTE) REGULATIONS 2010 (AMENDMENT) REGULATIONS 2011

2011 No. 83

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Education (Student Support) (European University Institute) Regulations 2010 (“the EUI Regulations”). These amendment regulations remove eligibility for support for holders of Discretionary Leave to enter or remain, until they are awarded settled status; they also introduce a new definition of ‘parent’ and a new definition of ‘family member’ for EEA workers/self-employed persons. The Regulations also update the deadlines for applying and providing financial information, and amend the relevant date.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The EUI Regulations are made under sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998, which give the Secretary of State the power to make provision for grants to eligible students in connection with their undertaking of designated higher education courses and further education courses.

4.2 These amendments come into force 22 days after the amending regulations are laid before Parliament.

5. Territorial Extent and Application

5.1 The Regulations apply to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The EUI Regulations provide support for a small number of students taking designated postgraduate courses at the European University Institute in Florence, Italy.

7.2 These Regulations make amendments to the regulations to provide clarity to definitions within the regulations, and to confirm that refugees and those awarded Humanitarian Protection are the only classes of persons with temporary leave to enter or remain in the UK who are to be considered eligible to receive support. Those with Discretionary Leave to enter or remain will no longer be eligible for student support. The amendments also update the deadlines for applying for support and for providing financial information, and also amend the relevant date.

The policy changes effected by the Regulations are set out below:

7.3 The application deadlines have been amended to reflect the change of academic year.

7.4 Amendment of the relevant date

In order to establish a student's eligibility for grants before interviews take place the relevant date has historically always been the 1 February. This date was changed to 1 May for the 09/10 academic year due to a delay with interviews. This amendment restores the relevant date to the beginning of February.

7.5 Defining a family member in line with Article 2 of EU Directive 2004/38

Schedule 1 to the EUI Regulations defines various classes of persons who may be eligible for grants.

In relation to European Economic Area (EEA) workers and self-employed persons, Schedule 1 of the Education Student Support Regulations 2009 (SSR 2009) refers to a child of that person or the child of that person's spouse or civil partner. An amendment to paragraph 1 to that Schedule 1 (made by S.I. 2010/2546) amends the definition of a "family member" to replace references to 'a child' with one that refers to direct descendants of the person or of the person's spouse or civil partner who are under the age of 21 or dependent on the person or person's spouse or civil partner. The change aligned the definition of a family member for EEA workers/self-employed persons with the definition of a family member in Article 2 of EU Directive 2004/38.

The amendments in these Regulations align the definition in the EUI Regulations with the amended definition in the SSR 2009.

7.6 Technical amendment to ensure that the term 'parent' is restricted to those with a legal status of parent.

The EUI Regulations provide that, for the purpose of prescribing the class of persons eligible to receive grants, children of certain persons may also qualify.

The definition of ‘parent’ in Schedule 1 of the EUI Regulations is amended to remove the reference to “any person having care of a child”. For the purposes of Schedule 1 to the EUI Regulations, ‘parent’ will be defined to include a legal guardian and any other person having parental responsibility only.

The term ‘parent’ will no longer include other persons having care of a child.

7.7 Replacing the category of ‘persons with leave to enter or remain in the UK’ with a new category of ‘person granted Humanitarian Protection’.

The amendments made in these Regulations restrict eligibility for grants to people with temporary leave to enter or remain to those awarded refugee status or Humanitarian Protection only. Persons holding other forms of temporary leave to enter or remain will no longer be classed as eligible students. Such persons will be required to have been awarded ‘settled’ status within the meaning given by section 33(2A) of the Immigration Act 1971, before the first day of the first academic year of the course in order to be considered eligible students. This restriction of eligibility for support was introduced to manage increased pressures on the student support budget. An equivalent amendment to the SSR 2009 is being made at the same time as these amendments.

8. Consultation outcome

8.1 The Refugee Council (in England) has received prior notification of the change detailed at 7.7.

9. Guidance

9.1 These changes will be notified through Departmental and partner bodies’ publications and websites.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The Regulations will be reviewed annually and the views of stakeholders will be monitored.

13. Contact

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