

STATUTORY INSTRUMENTS

2016 No. 606

EDUCATION, ENGLAND

**The Education (Postgraduate Master's
Degree Loans) Regulations 2016**

<i>Made</i>	- - - -	<i>24th May 2016</i>
<i>Laid before Parliament</i>		<i>26th May 2016</i>
<i>Coming into force</i>	- -	<i>16th June 2016</i>

The Secretary of State for Business, Innovation and Skills makes the following Regulations in exercise of the powers conferred by sections 22 and 42(6) of the Teaching and Higher Education Act 1998 ^{M1}:

Marginal Citations

M1 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 and the [Apprentices, Skills, Children and Learning Act 2009 \(c.22\)](#), section 257(1) and (2). See section 43(1) of the 1998 Act for the definition of “prescribed” and “regulations”.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Education (Postgraduate Master's Degree Loans) Regulations 2016 and come into force on 16th June 2016.

(2) Subject to [^{F1}paragraph] (4), these Regulations apply in relation to England only.

^{F2}(3)

(4) These Regulations extend to all of the United Kingdom in so far as they impose any obligation or confer any power ^{F3}... on any ^{F4}... person in relation to the retention or production of information or records.

(5) These Regulations apply in relation to the provision of a loan to students in relation to a postgraduate master's degree course which begins on or after 1st August 2016 whether anything done under these Regulations is done before, on or after 1st August 2016.

Status: Point in time view as at 13/02/2020.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Postgraduate Master's Degree Loans) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Word in reg. 1(2) substituted (5.9.2017) by [The Repayment of Student Loans and Postgraduate Masters Degree Loans \(Amendment\) Regulations 2017 \(S.I. 2017/831\)](#), regs. 1(1), **41(2)(a)**
- F2** Reg. 1(3) omitted (5.9.2017) by virtue of [The Repayment of Student Loans and Postgraduate Masters Degree Loans \(Amendment\) Regulations 2017 \(S.I. 2017/831\)](#), regs. 1(1), **41(2)(b)**
- F3** Words in reg. 1(4) omitted (5.9.2017) by virtue of [The Repayment of Student Loans and Postgraduate Masters Degree Loans \(Amendment\) Regulations 2017 \(S.I. 2017/831\)](#), regs. 1(1), **41(2)(c)(i)**
- F4** Word in reg. 1(4) omitted (5.9.2017) by virtue of [The Repayment of Student Loans and Postgraduate Masters Degree Loans \(Amendment\) Regulations 2017 \(S.I. 2017/831\)](#), regs. 1(1), **41(2)(c)(ii)**

PART 1

CHAPTER 1

Interpretation

2.—(1) For the purposes of Part 1—

“the 1998 Act” means the Teaching and Higher Education Act 1998;

[^{F5}“the 2017 Act” means the Higher Education and Research Act 2017;]

“academic authority” means, in relation to an institution, the governing body or other body having the functions of a governing body and includes a person acting with the authority of that body;

“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins according to whether that academic year begins on or after 1st January and before 1st April, on or after 1st April and before 1st July, on or after 1st July and before 1st August or on or after 1st August and on or before 31st December, respectively;

“authority-funded” means—

- (a) ^{F6} ...
- (b) in relation to educational institutions in Wales, maintained or assisted by recurrent grants from the Higher Education Funding Council for Wales;
- (c) in relation to educational institutions in Scotland, maintained or assisted by recurrent grants from the Scottish Funding Council; and
- (d) in relation to educational institutions in Northern Ireland, maintained or assisted by recurrent grants from the Department for the Economy in Northern Ireland or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

“course” means a taught programme of study, a programme of research, or a combination of both, and which may include one or more periods of work experience, and which leads, on successful completion, to the award of a postgraduate master's degree;

“designated course” means a course designated under regulation 4 or by the Secretary of State under regulation 4(6);

“Directive 2004/38” means Directive 2004/38 of the European Parliament and of the Council of 29th April 2004 ^{M2} on the rights of citizens of the Union and their family members to move and reside freely in the territory of the Member States;

“distance learning course” means a course on which a student undertaking the course is not required to be in attendance by the institution providing the course, where “required to be in attendance” is not satisfied by a requirement imposed by the institution to attend any institution—

- (a) for the purposes of registration or enrolment or any examination;
- (b) on a weekend or during any vacation; or
- (c) on an occasional basis during the week;

“electronic signature” is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication or data, the integrity of the communication or data, or both;

“eligible prisoner” means a prisoner—

- (a) who begins a designated course on or after 1st August 2017;
- (b) who is serving a sentence of imprisonment in the United Kingdom;
- (c) has been authorised by the prison Governor or Director or other appropriate authority to study the designated course; and
- (d) whose earliest release date is within 4 years of the first day of the first academic year of the designated course.

“eligible student” has the meaning given in regulation 3;

[^{F7}“English higher education provider” has the meaning given by section 83(1) of the 2017 Act;]

“equivalent or higher qualification” means a qualification determined in accordance with paragraph (2) to be an equivalent or higher qualification;

“EU national” means a national of a Member State of the EU;

“fees” has the meaning given in [^{F8}section 85(2) of the 2017 Act];

“full-time equivalent” means a full-time course leading to a postgraduate master's degree in the same subject as the part-time course in question;

“healthcare bursary” means a bursary or award of similar description under section 63 of the Health Services and Public Health Act 1968 ^{M3} or Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 ^{M4};

“information” includes documents;

[^{F9} “institution” in relation to England includes an English higher education provider;]

“Islands” means the Channel Islands and the Isle of Man;

[^{F10}“Northern Irish designated master's degree course” has the meaning given in paragraph (1A);]

[^{F11}“OfS” means the Office for Students, as established by section 1(1) of the 2017 Act;]

“period of eligibility” has the meaning given in regulation 5 in relation to an eligible student;

“periods of work experience” means—

- (a) periods of industrial, professional or commercial experience associated with the designated course at an institution, but at a place outside that institution;

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- (b) periods during which a student is employed and residing in a country whose language is one that the student is studying for that student's designated course (provided that the period of residence in that country is a requirement of that student's course and the study of one or more modern languages accounts for not less than one half of the total time spent studying on the course);

[^{F12c}“person granted Calais leave” means a person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971; and
- (b) has been ordinarily resident in the United Kingdom and Islands since the person was first granted such leave;]

“person granted humanitarian protection” means a person—

- (a) who, on the grounds of humanitarian protection, has been granted leave to remain under the immigration rules as defined in section 33(1) of the Immigration Act 1971 ^{M5};
- (b) whose leave to remain is extant, or in respect of whose leave to remain an appeal is pending (within section 104 of the Nationality, Immigration and Asylum Act 2002 ^{M6};
- and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave to remain;

[^{F13c}“person granted indefinite leave to remain as a victim of domestic violence or domestic abuse” means a person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence);
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse); or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces); and
- (b) who has been ordinarily resident in the United Kingdom and Islands since the person was granted such leave;]

[^{F14c}“person granted section 67 leave” means a person who—

- (a) has extant leave to remain as a person granted leave under paragraph 352ZG of the immigration rules, having been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016, or a dependent child of such a person who has been granted “leave in line” under paragraph 352ZO of those rules; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course;]

[^{F15c}“person granted stateless leave” means a person who—

- (a) has extant leave to remain as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971); and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave.]

“postgraduate master's degree loan” ^{F16} means a loan made by the Secretary of State pursuant to these Regulations, and includes the interest accrued on the loan, and any penalties or charges incurred in connection with it, except for any interest, penalties or charges payable under Part 3 or 4 of the Education (Student Loans) (Repayment) Regulations 2009;]

“prisoner” includes a person detained in a young offender institution;

“private institution” means an institution which is not publicly funded;

“public funds” means moneys provided by Parliament or by a government authority outside the United Kingdom;

“publicly funded”, unless otherwise indicated, means maintained or assisted by recurrent grants out of public funds and related expressions are to be interpreted accordingly;

“refugee” means a person who is recognised by Her Majesty's government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 ^{M7} as extended by the Protocol thereto which entered into force on 4th October 1967 ^{M8};

^{F17}“register” means the register established and maintained by the OfS under section 3 of the 2017 Act;]

^{F18}“registered provider” in relation to an institution means an English higher education provider which is registered in the register and “unregistered provider” is to be construed accordingly;]

“right of permanent residence” means a right arising under Directive 2004/38 to reside in the United Kingdom permanently without restriction;

^{F19}“Scottish designated master’s degree course” has the meaning given in paragraph (1A);]

“student loans legislation” means the student support regulations, the Education (Student Loans) Act 1990 ^{M9}, the Education (Student Loans) (Northern Ireland) Order 1990 ^{M10}, the Education (Scotland) Act 1980 ^{M11} and regulations made under those Acts or that Order, the Education (Student Support) (Northern Ireland) Order 1998 ^{M12} and regulations made under that Order or the 1998 Act and regulations made under that Act;

“student support regulations” means the Education (Student Support) Regulations 2011 ^{M13};

“Turkish worker” means a Turkish national who—

- (a) is ordinarily resident in the United Kingdom and Islands; and
- (b) is, or has been, lawfully employed in the United Kingdom;

^{F20}“Welsh designated master’s degree course” has the meaning given in paragraph (1A).]

^{F21}(1A) In these Regulations—

“Northern Irish designated master’s degree course” means a postgraduate master’s degree course substantially provided in Northern Ireland and designated under regulation 152(8) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009 for the purposes of regulation 149 of those Regulations and Article 3 of the Education (Student Support) (Northern Ireland) Order 1998;

“Scottish designated master’s degree course” means a postgraduate master’s degree course substantially provided in Scotland—

- (a) determined as designated under regulation 4(9) of the Education (Student Loans) (Scotland) Regulations 2007 for the purposes of regulation 3(2) of those Regulations;
- (b) designated under regulation 152(8) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009 for the purposes of regulation 149 of those

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Regulations and Article 3 of the Education (Student Support) (Northern Ireland) Order 1998; and

- (c) either—
- (i) designated under regulation 4(6) of the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017 for the purposes of regulation 3 of those Regulations and section 22 of the 1998 Act; or
 - (ii) specified to be treated as a designated course under regulation 8(1) of the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019, for the purposes of those Regulations;

“Welsh designated master's degree course” means a postgraduate master's degree course substantially provided in Wales—

- (a) designated under regulation 4(6) of the Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017 for the purposes of regulation 3 of those Regulations and section 22 of the 1998 Act; or
- (b) specified to be treated as a designated course under regulation 8(1) of the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019, for the purposes of those Regulations.

(1B) For the purposes of paragraph (1A)—

- (a) a course is substantially provided in Northern Ireland if at least half of the teaching and supervision which comprise the course is provided in Northern Ireland;
- (b) a course is substantially provided in Scotland if at least half of the teaching and supervision which comprise the course is provided in Scotland;
- (c) a course is substantially provided in Wales if at least half of the teaching and supervision which comprise the course is provided in Wales.]

(2) The Secretary of State may determine that a qualification is an equivalent or higher qualification if—

- (a) an eligible student holds a higher education qualification from any institution whether or not in the United Kingdom; and
- (b) the qualification referred to in sub-paragraph (a) is a postgraduate master's degree from an institution in the United Kingdom or is of an academic level which, in the opinion of the Secretary of State, is equivalent to or higher than a qualification to which the designated course leads.

Textual Amendments

- F5** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), regs. 1(1), **41(a)**
- F6** Words in reg. 2(1) omitted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), regs. 1(1), **41(b)**
- F7** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), regs. 1(1), **41(c)**
- F8** Words in reg. 2(1) substituted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), regs. 1(1), **41(d)**

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- F9** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **41(e)**
- F10** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **4(2)(a)(i)(aa)**
- F11** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **41(f)**
- F12** Words in reg. 2(1) inserted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **3(5)(a)**
- F13** Words in reg. 2(1) inserted (with application in accordance with reg. 1(3)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **2(5)(a)**
- F14** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **41(g)**
- F15** Words in reg. 2(1) inserted (with application in accordance with reg. 1(4) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2018 (S.I. 2018/137), regs. 1(2), **14(1)**
- F16** Words in reg. 2(1) substituted (11.6.2018) by The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599), regs. 1(1), **59**
- F17** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **41(h)**
- F18** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **41(i)**
- F19** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **4(2)(a)(i)(bb)**
- F20** Words in reg. 2(1) inserted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **4(2)(a)(i)(cc)**
- F21** Reg. 2(1A)(1B) inserted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **4(2)(a)(ii)**

Marginal Citations

- M2** OJ L158, 30.4.2004, p77-123.
- M3** 1968 c.46, as amended by 1973 (c.32), 1977 (c.49), 1978 (c.29), 1985 (c.51), 1988 (c.49), 1994 (c.39), 1995 (c.17), 1997 (c.46), 1999 (c.8), 2001 (c.15), 2002 (c.17), 2003 (c.43), 2004 (c.31), 2006 (c.43), S.I. 1996/1008, S.I. 2002/2202, S.I. 2002/2469, S.I. 2004/288, S.I. 2004/957, S.I.2006/1056 and S.I. 2007/961.
- M4** S.I. 1972/1265 (N.I. 14), to which there have been amendments not relevant to these Regulations.
- M5** 1971 c.77.
- M6** 2001 c.41; section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19), section 26 and Schedule 2 and the Immigration, Asylum and Nationality Act 2006 (c.13), section 9).
- M7** Cmnd. 9171.
- M8** Cmnd. 3906 (out of print).

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- M9** 1990 c.6; Repealed by the Teaching and Higher Education Act 1998 (c.30), Schedule 4.
- M10** S.I. 1990/1506 (N.I. 11); amended by S.I. 1996/274 (N.I. 1), Article 43 and Schedule 5 Part II, S.I. 1996/1918 (N.I. 15), Article 3 and the Schedule and S.I. 1998/258 (N.I. 1), Articles 3 to 6 and revoked, with savings, by SR (NI) 1998 No 306.
- M11** 1980 c44.
- M12** S.I. 1998/1760 (N.I. 14), to which there have been amendments not relevant to these Regulations.
- M13** S.I. 2011/1986; amended by S.I. 2012/1653, S.I. 2013/235, S.I.2013/630, S.I.2013/1728, S.I.2013/3106, S.I.2014/1766, S.I.2014/2013, S.I. 2014/2765, S.I.2015/1951, S.I. 2016/27, S.I. 2016/584.

CHAPTER 2

Eligible students

3.—(1) An eligible student qualifies for a postgraduate master's degree loan in connection with a designated course subject to and in accordance with these Regulations.

(2) Subject to paragraphs (3) to (7), a person is an eligible student in connection with a designated course if in assessing that person's application for a postgraduate master's degree loan 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—

- [^{F22}(za) A is excused from undertaking any part of the course due to—
- (i) A’s previous experience;
 - (ii) A having taken a module or other unit of work of another course; or
 - (iii) A having been awarded a credit, credit point or equivalent measurement of study in respect of any part of another course;]
- (a) A has reached the age of 60 on the first day of the academic year in which the designated course starts;
- (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 made with A 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 a postgraduate master's degree loan;
- (e) A is a prisoner, unless A is an eligible prisoner;
- [^{F23}(f) A is enrolled on a course which is a designated course under regulation 5 (designated courses) or 139 (designated part-time courses) of the student support regulations or under regulation 4 (designated courses) of the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018, and is receiving support under either set of regulations for that course;]
- (g) A has already obtained an equivalent or higher qualification;
- (h) A is already enrolled on a designated course and is in receipt of a postgraduate master's degree loan under these Regulations for that course;
- (i) Subject to paragraph (7), A has previously received a postgraduate master's degree loan under these Regulations; ^{F24}...
- [^{F25}(j) A is, in connection with the course—
- (i) eligible to apply for a healthcare bursary;
 - (ii) eligible to apply for any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007; or

(iii) in receipt of any allowance, bursary or award of a similar description made under section 67(4)(a) of the Care Standards Act 2000, or under section 46 of the Children and Social Work Act 2017, which includes payment for meeting additional expenditure incurred by A by reason of A's disability, save to the extent that A is in receipt of such an allowance, bursary or award in respect of travel expenses; or]

[^{F26}(k) subject to paragraph (7), A has previously received—

- (i) a loan other than under these Regulations in respect of a course, where that loan was paid out of funds provided by a government authority within the United Kingdom; or
- (ii) a grant under regulation 33(1) of the Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019 (basic grant or contribution to costs grant).]

[^{F27}(3A) Paragraph (3)(za) does not apply where—

- (a) A was so excused as a result of transferring to the course from a designated course; and
- (b) the Secretary of State considers A being so excused to be reasonable in the circumstances.]

(4) Where the eligible student is undertaking a designated course which is a distance learning course, the student does not qualify for support in respect of that course unless the Secretary of State considers that the student is undertaking the course in England on the first day of [^{F28}the first academic year of] the course, whether the course is a designated course at that date or is designated on a later date during the academic year.

[^{F29}(4A) For the purposes of paragraph (4), a person ("A") is to be treated as being ordinarily resident in England for any period during which A would have been so resident but for the fact that—

- (a) A,
- (b) A's spouse or civil partner,
- ^{F30}(c)
- (d) in the case of a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,

is or was temporarily employed in Wales, Scotland or Northern Ireland as a member of the regular naval, military or air forces of the Crown.]

(5) An eligible student ceases to be eligible for a postgraduate master's degree loan in respect of a distance learning course, if the Secretary of State considers that the student is undertaking the course outside the United Kingdom notwithstanding whether that student has previously been considered by the Secretary of State to be undertaking their course within the United Kingdom.

[^{F31}(5A) Paragraphs (4) and (5) do not apply to a person who is treated as ordinarily resident in the United Kingdom by virtue of paragraph 1(5) of Schedule 1 on the basis of temporary employment falling within paragraph 1(6)(a) of Schedule 1.]

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

[^{F32}(7) The Secretary of State may deem a person described in paragraph (3)(i) or (3)(k) to be an eligible student where the Secretary of State is of the view that the person had not been able to complete the course to which the previous loan related due to compelling personal reasons.]

(8) The Secretary of State may only exercise his discretion to award a subsequent postgraduate master's degree loan to a particular person under paragraph (7) once in respect of a particular student.

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Textual Amendments

- F22** Reg. 3(3)(za) inserted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **12(1)(a)(i)**
- F23** Reg. 3(3)(f) substituted (11.6.2018) by The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599), regs. 1(1), **60(2)**
- F24** Word in reg. 3(3)(i) omitted (12.6.2017) by virtue of The Education (Postgraduate Masters Degree Loans) (Amendment) Regulations 2017 (S.I. 2017/594), regs. 1(1), **2(2)(a)**
- F25** Reg. 3(3)(j) substituted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **13(2)**
- F26** Reg. 3(3)(k) substituted (with application in accordance with reg. 1(3)(c) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **14**
- F27** Reg. 3(3A) inserted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **12(1)(a)(ii)**
- F28** Words in reg. 3(4) inserted (with application in accordance with reg. 1(3)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2018 (S.I. 2018/137), regs. 1(2), **13(b)**
- F29** Reg. 3(4A) inserted (with application in accordance with reg. 1(3)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support) (Amendment) Regulations 2018 (S.I. 2018/137), regs. 1(2), **11**
- F30** Reg. 3(4A)(c) omitted (11.6.2018) by virtue of The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599), regs. 1(1), **60(3)** (with reg. 1(4))
- F31** Reg. 3(5A) inserted (with application in accordance with reg. 1(3)(a) of the amending S.I.) by The Education (Postgraduate Masters Degree Loans) (Amendment) Regulations 2017 (S.I. 2017/594), regs. 1(1), **2(2)(d)**
- F32** Reg. 3(7) substituted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by The Education (Postgraduate Masters Degree Loans) (Amendment) Regulations 2017 (S.I. 2017/594), regs. 1(1), **2(2)(e)**

Designated courses

4.—(1) Subject to paragraphs (5) and (6), a course is a designated course for the purposes of section 22(1) of the 1998 Act and regulation 3 if it is—

- (a) a [^{F33}full] postgraduate master's degree course which falls within paragraph (2);
- [^{F34}(b) one of the following—
- (i) wholly provided by a registered provider, or provided by a registered or unregistered provider on behalf of a registered provider in England;
 - (ii) wholly provided by an authority-funded institution in Scotland, Northern Ireland or Wales;
 - (iii) provided by a registered provider on behalf of an authority-funded institution in Scotland, Northern Ireland or Wales;
 - (iv) provided by an institution situated in Scotland, Northern Ireland or Wales on behalf of a registered provider in England, or by a publicly funded institution situated in Scotland, Northern Ireland or Wales on behalf of an authority-funded institution in Scotland, Northern Ireland or Wales;

- (v) provided by a registered provider in England in conjunction with an institution which is situated outside the United Kingdom; or
- (vi) provided by an authority-funded institution in Scotland, Northern Ireland or Wales in conjunction with an institution which is situated outside the United Kingdom;]
- (c) substantially provided in the United Kingdom; and
- (d) a postgraduate master's degree course which—
 - (i) leads to an award granted or to be granted by a body falling within section 214(2)[^{F35}(za), (zb),] (a) or (b) of the Education Reform Act 1988 ^{M14}; and
 - (ii) the teaching and supervision which comprise the course has been approved by that body.

[^{F36}(1A) For the purposes of section 22 of the 1998 Act and regulation 3(1), a course is a designated course if it—

- (a) is a Northern Irish designated master's degree course, a Scottish designated master's degree course or a Welsh designated master's degree course;
- (b) is a full postgraduate master's degree course; and
- (c) falls within paragraph (2).]

(2) For the purpose of [^{F37}paragraphs (1)(a) and (1A)], the postgraduate master's degree course must be one of the following—

- (a) a full-time course of one or two academic year's duration;
- (b) a part-time course which it is ordinarily possible to complete in no more than twice the period ordinarily required to complete its one or two academic year full-time equivalent; or
- (c) a part-time course that does not have a full-time equivalent and which it is ordinarily possible to complete in up to three academic years.

(3) For the purposes of paragraph (1)(b) and (c)—

- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not the institution has entered into an agreement with the student to provide the course;
- (b) a course is substantially provided in the United Kingdom where at least half of the teaching and supervision which comprise the course is provided in the United Kingdom;
- (c) a university and any constituent college or institution in the nature of a college of a university is to be regarded as authority-funded if either the university or the constituent college or institution is authority-funded;
- (d) an institution is not to be regarded as publicly funded or authority-funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992 ^{M15}; and
- (e) a course is not to be regarded as provided on behalf of an authority-funded educational institution where a part of the course is provided by a private institution [^{F38}in Scotland, Northern Ireland or Wales, or by a private institution which is an unregistered provider in England].

(4) The designated course may, but need not, be a distance learning course.

[^{F39}(4ZA) In paragraphs (1)(a) and (1A), “full postgraduate master's degree course” means a course which, independent of a student's previous experience or any module or other unit of work, credit, credit point or equivalent measurement of study taken or awarded in respect of another course, leads to a master's degree.]

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[^{F40}(4A) A course is not a designated course if its designation has been revoked or is suspended under paragraph (7).]

[^{F41}(5) A course cannot be a designated course for the purposes of regulation 3 if it is recognised as a designated course for the purposes of regulation 5 (designated courses) or 139 (designated part-time courses) of the student support regulations or regulation 4 (designated courses) of the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018.]

(6) For the purposes of section 22 of the 1998 Act ^{M16} and regulation 3(1), the Secretary of State may designate courses of higher education which are not designated under paragraph (1) [^{F42}or (1A)].

(7) The Secretary of State may revoke or suspend the designation of a course which is designated under [^{F43}this regulation].

Textual Amendments

- F33** Word in reg. 4(1)(a) inserted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **12(1)(b)(i)**
- F34** Reg. 4(1)(b) substituted (with application in accordance with reg. 1(2)(4)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **42(2)**
- F35** Words in reg. 4(1)(d) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **42(3)**
- F36** Reg. 4(1A) inserted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **4(2)(b)(i)**
- F37** Words in reg. 4(2) substituted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **4(2)(b)(ii)**
- F38** Words in reg. 4(3)(e) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **42(4)**
- F39** Reg. 4(4ZA) inserted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **12(1)(b)(ii)**
- F40** Reg. 4(4A) inserted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **42(5)**
- F41** Reg. 4(5) substituted (11.6.2018) by The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599), regs. 1(1), **61**
- F42** Words in reg. 4(6) inserted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **4(2)(b)(iii)**
- F43** Words in reg. 4(7) substituted (with application in accordance with reg. 1(2)(5) of the amending S.I.) by The Education (Student Fees, Awards and Support etc.) (Amendment) Regulations 2019 (S.I. 2019/142), regs. 1(1), **42(6)**

Marginal Citations

- M14** 1988 c.40; s214(2)(a) was amended by 1992 (c.13).
- M15** 1992 c.13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c.30), **section 27**.

M16 1998 c.30.

Period of eligibility

5.—(1) A student's status as an eligible student is retained in connection with a designated course until the status terminates in accordance with this regulation or regulation 3.

(2) The period for which an eligible student retains that status is the “period of eligibility”.

(3) Subject to the following paragraphs and regulation 3, the period of eligibility terminates at the end of the academic year in which the student completes the designated course.

(4) The period of eligibility terminates when—

(a) the eligible student (“A”) withdraws from A's designated course in circumstances where the Secretary of State is not obliged under regulation 6 to transfer A's status as an eligible student to another course; or

(b) A abandons or is expelled from A's designated course.

(5) The Secretary of State may terminate the period of eligibility where A has shown by A's conduct that A is unfitted to receive a postgraduate master's degree loan.

(6) If the Secretary of State is satisfied that an eligible student has failed to comply with any requirement to provide information under these Regulations or has provided information which is inaccurate in a material particular, the Secretary of State may take such of the following actions as the Secretary of State considers appropriate in the circumstances—

(a) terminate the period of eligibility;

(b) determine that the student no longer qualifies for a postgraduate master's degree loan;

(c) treat any postgraduate master's degree loan paid to the student as an overpayment which may be recovered under regulation 17.

(7) Where the period of eligibility terminates before the end of the academic year in which the student completes the designated course, the Secretary of State may, at any time, renew the period of eligibility for such period as the Secretary of State determines.

Transfer of status

6.—(1) Where an eligible student “A” transfers to another course, the Secretary of State must transfer A's status as an eligible student to that course where—

(a) he receives a request from the eligible student to do so;

(b) he is satisfied that one or more of the grounds for transfer in paragraph (2) applies; and

(c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

(a) on the recommendation of the academic authority A ceases one designated course and starts to undertake another designated course at the same institution; or

(b) A starts to undertake a designated course at another institution.

(3) Where A transfers under paragraph (1), A is entitled to receive in connection with the academic year of the course to which A transfers the remainder of the postgraduate master's degree loan in accordance with regulation 13 and, where relevant, regulation 16, in respect of the academic year of the course from which A transfers.

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Students becoming eligible in the course of an academic year

7. Where one of the events listed in regulation 8 occurs during the currency of a student's course, a student may qualify for a postgraduate master's degree loan, provided the student complies with the application provisions set out in chapter 3 of Part 1.

Events

8. The events are—

- [^{F44}(a) the student's course becomes a designated course—
- (i) under regulation 4(6);
 - (ii) by virtue of the course being provided by or on behalf of an English higher education provider which becomes a registered provider; or
 - (iii) by virtue of the course becoming a Northern Irish designated master's degree course, a Scottish designated master's degree course or a Welsh designated master's degree course;]
- (b) the student or the student's spouse, civil partner or parent is recognised as a refugee or becomes [^{F45}a person granted stateless leave or] a person granted humanitarian protection;
- (c) a state accedes to the EU where the student is a national of that state or a family member (as defined in Part 1 of Schedule 1) of a national of that state;
- (d) the student becomes a family member (as defined in Part 1 of Schedule 1) of an EU national;
- (e) the student acquires the right of permanent residence;
- (f) the student becomes the child of a Turkish worker;
- (g) the student becomes a person described in paragraph 6(1)(a) of Schedule 1;
- (h) the student becomes the child of a Swiss national; ^{F46} ...
- (i) the student commences a designated course after the start date of the designated course as the relevant academic authority has permitted the student to commence the course at this later start date [^{F47}; ^{F48} ...]
- [^{F49}(j) the student becomes a person granted section 67 leave.]
- [^{F50}(k) the student becomes a person granted indefinite leave to remain as a victim of domestic violence or domestic abuse; or]
- [^{F51}(l) the student becomes a person granted Calais leave.]

Textual Amendments

- F44** Reg. 8(a) substituted (with application in accordance with reg. 1(2)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), regs. 1(1), **4(2)(c)**
- F45** Words in reg. 8(b) inserted (with application in accordance with reg. 1(4) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2018 \(S.I. 2018/137\)](#), regs. 1(2), **14(2)**
- F46** Word in reg. 8(h) omitted (with application in accordance with reg. 1(2)(3)(5) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), regs. 1(1), **43(3)(a)**

- F47** Word in reg. 8(i) substituted for full stop (with application in accordance with reg. 1(2)(3)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), [regs. 1\(1\)](#), [43\(3\)\(b\)](#)
- F48** Word in reg. 8(i) omitted (with application in accordance with reg. 1(3)(a) of the amending S.I.) by virtue of [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), [regs. 1\(1\)](#), [2\(5\)\(b\)\(i\)](#)
- F49** Reg. 8(j) inserted (with application in accordance with reg. 1(2)(3)(5) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), [regs. 1\(1\)](#), [43\(3\)\(c\)](#)
- F50** Reg. 8(k) inserted (with application in accordance with reg. 1(3)(a) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), [regs. 1\(1\)](#), [2\(5\)\(b\)\(ii\)](#)
- F51** Reg. 8(l) inserted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), [regs. 1\(1\)](#), [3\(5\)\(b\)](#)

CHAPTER 3

Applications for a postgraduate master's degree loan

9.—(1) Where a person (the “applicant”) applies for a postgraduate master's degree loan in connection with a designated course, the applicant must complete and submit to the Secretary of State an application in such form and accompanied by such documentation as the Secretary of State may require.

(2) The Secretary of State may take such steps and make such inquiries as the Secretary of State considers necessary to determine whether the applicant is an eligible student.

(3) The Secretary of State must notify the applicant of whether the applicant qualifies for a postgraduate master's degree loan.

Time limits

^[F52]**10.—(1)** An application for a postgraduate master's degree loan, or an application to amend the amount of loan applied for, must reach the Secretary of State no later than the end of the ninth month of the final academic year of the course.

(2) Paragraph (1) does not apply where the Secretary of State considers that having regard to the circumstances of the particular case the time limit is to be relaxed, in which case the application must reach the Secretary of State no later than such date as the Secretary of State specifies.]

Textual Amendments

- F52** Reg. 10 substituted (11.6.2018) by [The Education \(Postgraduate Doctoral Degree Loans and the Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No. 2\) etc.\) Regulations 2018 \(S.I. 2018/599\)](#), [regs. 1\(1\)](#), [62](#)

Requirement to enter into a contract for a postgraduate master's degree loan

11.—(1) To receive a postgraduate master's degree loan a student must enter into a contract with the Secretary of State.

(2) Where the Secretary of State requires a contract to be signed by a student, an electronic signature in such form as the Secretary of State may specify satisfies such a requirement.

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CHAPTER 4

Amount of the postgraduate master's degree loan

12.—(1) Subject to paragraph (2), a person may apply for a postgraduate master's degree loan of up to [^{F53}£11,222] towards the costs of undertaking a designated course.

(2) An applicant whom the Secretary of State would consider to be an eligible prisoner may apply for a postgraduate master's degree loan to cover the whole or part of the fees of the designated course (but not towards other costs), but such postgraduate master's degree loan cannot be of more than [^{F54}£11,222].

(3) An eligible student may apply to the Secretary of State to amend the amount of postgraduate master's degree loan for which the student has applied, provided that—

- (a) the maximum postgraduate master's degree loan amount set out in paragraphs (1) and (2) is not exceeded;
- (b) such application is made in accordance with [^{F55}regulation 10(1)].

(4) If the Secretary of State under regulation 9(2) has determined that the applicant is an eligible student, the Secretary of State must pay the amount the eligible student has applied for in accordance with regulation 13, provided that the amount applied for is in accordance with paragraphs (1) and (2).

Textual Amendments

- F53** Sum in reg. 12(1) substituted (with application in accordance with reg. 1(3)(e)(4) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), regs. 1(1), **17(1)**
- F54** Sum in reg. 12(2) substituted (with application in accordance with reg. 1(3)(e)(4) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), regs. 1(1), **17(1)**
- F55** Words in reg. 12(3)(b) substituted (11.6.2018) by [The Education \(Postgraduate Doctoral Degree Loans and the Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No. 2\) etc.\) Regulations 2018 \(S.I. 2018/599\)](#), regs. 1(1), **63**

Payment of postgraduate master's degree loans

13.—(1) The Secretary of State may pay the postgraduate master's degree loan for which a student qualifies under this Part—

- (a) either as a lump sum or by instalments; and
- (b) at such times, and in such manner, as the Secretary of State considers appropriate.

(2) The Secretary of State may make it a condition of entitlement to payment that the eligible student must provide the Secretary of State with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

(3) In the case of an eligible prisoner, the Secretary of State must pay the postgraduate master's degree loan for which an eligible prisoner qualifies to the institution to which the eligible prisoner is liable to make payment for the fees or to such third party that the Secretary of State considers appropriate for the purpose of ensuring the payment of the fees to the relevant institution.

[^{F56}(4) The Secretary of State must not, in any academic year, pay the whole or part of the postgraduate master's degree loan in respect of a particular student until the Secretary of State has received from the academic authority confirmation (in such form as may be required by the Secretary

of State) in respect of that academic year that the student is in attendance or is undertaking the designated course.]

[^{F57}(5) The academic authority must forthwith inform the Secretary of State and provide the Secretary of State with particulars if—

- (a) the student withdraws, is suspended or is expelled from their course, or is otherwise absent; or
- (b) the student is required to repeat a module or a similar unit of work.]

Textual Amendments

- F56** Reg. 13(4) substituted (11.6.2018) by [The Education \(Postgraduate Doctoral Degree Loans and the Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No. 2\) etc.\) Regulations 2018 \(S.I. 2018/599\)](#), regs. 1(1), **64**
- F57** Reg. 13(5) substituted (13.2.2020) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), regs. 1(1), **15(2)**

Provision of United Kingdom national insurance number

14.—(1) The Secretary of State may make it a condition of entitlement to payment of the whole or part of the postgraduate master's degree loan that the eligible student must provide the Secretary of State with the student's United Kingdom national insurance number.

(2) Where the Secretary of State has imposed a condition under paragraph (1), the Secretary of State must not make payment of the whole or part of the postgraduate master's degree loan to the eligible student before the Secretary of State is satisfied that the student has complied with that condition.

(3) Despite paragraph (2), the Secretary of State may make payment of the whole or part of the postgraduate master's degree loan to an eligible student if the Secretary of State is satisfied that owing to exceptional circumstances it would be appropriate to make such a payment without the eligible or qualifying student having complied with the condition imposed under paragraph (1).

Absence from^{F58}, or repetition of parts of,] course

15.—^{F59}(1) Subject to paragraphs (2) to (6), if the Secretary of State receives a notice under regulation 13(5)(a) or (b) or paragraph (2)(a) to (c) of Schedule 2 of an eligible student's—

- (a) lack of attendance on the designated course; or
- (b) need to repeat a module or similar unit of work,

the Secretary of State may not make any further payment of the postgraduate master's degree loan.]

(2) Further payments may be made despite the [^{F60}Secretary of State receiving a notice referred to in paragraph (1)] if, in the opinion of the Secretary of State, those payments would be appropriate in all the circumstances ^{F61}....

(3) If the eligible student recommences the course the student must inform the Secretary of State and give full details of the length and cause of the preceding absence.

(4) After considering the student's notification [^{F62}under paragraph (3)], the Secretary of State must recommence further payments of the postgraduate master's loan under regulation 13 if, in the opinion of the Secretary of State, it would be appropriate in all the circumstances for such payment to be made.

[^{F63}(5) The academic authority must inform the Secretary of State if the eligible student—

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- (a) completes the module or unit of work; or
 - (b) is no longer required to complete the module or unit of work.
- (6) After considering the information given under paragraph (5), the Secretary of State must recommence further payments of the postgraduate master's degree loan under regulation 13.]

Textual Amendments

- F58** Words in reg. 15 heading inserted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **15(3)(a)**
- F59** Reg. 15(1) substituted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **15(3)(b)**
- F60** Words in reg. 15(2) substituted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **15(4)(a)**
- F61** Words in reg. 15(2) omitted (13.2.2020) by virtue of The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **15(4)(b)**
- F62** Words in reg. 15(4) substituted (12.6.2017) by The Education (Postgraduate Masters Degree Loans) (Amendment) Regulations 2017 (S.I. 2017/594), regs. 1(1), **2(6)**
- F63** Reg. 15(5)(6) inserted (13.2.2020) by The Education (Student Fees, Awards and Support etc.) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/48), regs. 1(1), **15(5)**

Effect of becoming, or ceasing to be, an eligible prisoner

16.—(1) Paragraph (2) applies where an eligible student who is in receipt of a postgraduate master's degree loan becomes an eligible prisoner and continues to undertake a designated course.

(2) The Secretary of State must—

- (a) adjust future payment of the postgraduate master's degree loan or future payments of instalments of the postgraduate master's degree loan, so that the total of the postgraduate master's degree loan awarded complies with the maximum postgraduate master's degree loan amount the student, as an eligible prisoner, is entitled to under regulation 12(2); and
- (b) pay any remaining sum of the postgraduate master's degree loan, or any future instalments of the postgraduate master's degree loan, in accordance with regulation 13(3).

(3) Paragraphs (4) to (6) apply where an eligible prisoner who is in receipt of a postgraduate master's degree loan ceases to be an eligible prisoner and remains an eligible student, and continues to undertake a designated course.

(4) The Secretary of State must pay the remaining sum or the postgraduate master's degree loan, or future instalments of the postgraduate master's degree loan, in accordance with regulation 13(1).

(5) Where an eligible student (“A”) ceases to be an eligible prisoner and would have qualified for a higher amount of postgraduate master's degree loan had A not been an eligible prisoner when A's loan application was originally determined in accordance with these Regulations, A may apply for the amount of loan to be increased.

(6) The maximum amount of the increase in A's postgraduate master's degree loan for which A may apply under paragraph (5) is the amount which is calculated by reference to the following formula—

$$\frac{(F - R)}{M} \times T$$

where—

F equals the amount which A would have qualified for if A had not been an eligible prisoner;
R equals the amount which A qualifies for as an eligible prisoner;
T is the number of days of the course which remain when A ceases to be an eligible prisoner beginning with the day after the day on which A ceases to be an eligible prisoner; and
M is the total number of days of the duration of the course.

Overpayments of a postgraduate master's degree loan

17.—(1) Any overpayment of a postgraduate master's degree loan is recoverable by the Secretary of State from—

- (a) the institution or third party which received the monies of the postgraduate master's degree loan where payment was made to such an institution or third party; or
- (b) the student who received the postgraduate master's degree loan.

(2) A student must, if so required by the Secretary of State, repay any amount of the postgraduate master's degree loan paid in respect of a student which for whatever reason exceeds the amount of loan to which the student is entitled.

(3) An overpayment of a postgraduate master's degree loan may be recovered from a student under paragraph (1)(b) in whichever one or more of the following ways the Secretary of State considers appropriate in all the circumstances—

- (a) by subtracting the overpayment from any amount of the postgraduate master's degree loan which remains to be paid;
- (b) by subtracting the overpayment from any kind of grant or loan payable to the student from time to time pursuant to regulations made by the Secretary of State under section 22 of the 1998 Act;
- (c) by requiring the student to repay the postgraduate master's degree loan in accordance [F64 with regulations made under section 22 of the 1998 Act]; or
- (d) by taking such other action for the recovery of an overpayment as is available to the Secretary of State.

Textual Amendments

F64 Words in reg. 17(3)(c) substituted (11.6.2018) by [The Education \(Postgraduate Doctoral Degree Loans and the Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No. 2\) etc.\) Regulations 2018 \(S.I. 2018/599\)](#), regs. 1(1), 65

CHAPTER 5

Information requirements

18.—(1) Schedule 2 makes further provision about the supply of information by applicants and eligible students.

(2) The Secretary of State may at any time request from an applicant or eligible student information that the Secretary of State considers is required to recover a postgraduate master's degree loan.

(3) The Secretary of State may at any time require an applicant or eligible student to enter into an agreement to repay a postgraduate master's degree loan by a particular method.

(4) The Secretary of State may at any time request from an applicant or eligible student sight of their valid national identity card, valid passport issued by the state of which they are a national or their birth certificate.

Status: Point in time view as at 13/02/2020.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Postgraduate Master's Degree Loans) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(5) Where the Secretary of State has requested information under this regulation, the Secretary of State may withhold any payment of a postgraduate master's degree loan until the person provides what has been requested or provides a satisfactory explanation for not complying with the request.

(6) Where the Secretary of State has required an agreement as to the method of repayment under this regulation, the Secretary of State may withhold any payment of a postgraduate master's degree loan until the person provides what has been required.

F65 PART 2

Textual Amendments

F65 Pt. 2 omitted (5.9.2017) by virtue of [The Repayment of Student Loans and Postgraduate Masters Degree Loans \(Amendment\) Regulations 2017 \(S.I. 2017/831\)](#), regs. 1(1), **41(3)**

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Postgraduate Master's Degree Loans) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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Status: Point in time view as at 13/02/2020.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Postgraduate Master's Degree Loans) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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Status: Point in time view as at 13/02/2020.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Postgraduate Master's Degree Loans) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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Status: Point in time view as at 13/02/2020.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Postgraduate Master's Degree Loans) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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

SCHEDULE 1

Regulations 3 and 8

ELIGIBLE STUDENTS

PART 1

Interpretation

1.—(1) For the purposes of this Schedule—

“EEA frontier self-employed person” means an EEA national who—

- (a) is a self-employed person in England; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to the national's residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA frontier worker” means an EEA national who—

- (a) is a worker in England; and
- (b) resides in Switzerland or the territory of an EEA State other than the United Kingdom and returns to the national's residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“EEA migrant worker” means an EEA national who is a worker, other than an EEA frontier worker, in the United Kingdom;

“EEA national” means a national of an EEA State other than the United Kingdom;

“EEA self-employed person” means an EEA national who is a self-employed person, other than an EEA frontier self-employed person, in the United Kingdom;

“employed person” means an employed person within the meaning of Annex 1 to the Swiss Agreement;

“European Economic Area” means the area comprised by the EEA States; unless otherwise indicated, “family member” means—

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self-employed person or an EEA self-employed person—
 - (i) that person's spouse or civil partner;
 - (ii) direct descendants of the person or of the person's spouse or civil partner who are—
 - (aa) under the age of 21, or
 - (bb) dependents of the person or the person's spouse or civil partner; or
 - (iii) dependent direct relatives in the ascending line of that person or that of the person's spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self-employed person or a Swiss self-employed person—
 - (i) that person's spouse or civil partner; or
 - (ii) that person's child or the child of that person's spouse or civil partner;
- (c) in relation to an EU national who falls within article 7(1)(c) of Directive 2004/38 —
 - (i) that person's spouse or civil partner; or
 - (ii) direct descendants of the person or of the person's spouse or civil partner who are—
 - (aa) under the age of 21; or

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- (bb) dependants of the person or the person's spouse or civil partner;
- (d) in relation to an EU national who falls within article 7(1)(b) of Directive 2004/38—
 - (i) that person's spouse or civil partner;
 - (ii) direct descendants of the person or of the person's spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the person or the person's spouse or civil partner; or
 - (iii) dependent direct relatives in the person's ascending line or that of the person's spouse or civil partner;
- (e) in relation to a United Kingdom national, for the purposes of paragraph 9—
 - (i) the person's spouse or civil partner; or
 - (ii) direct descendants of the person or the person's spouse or civil partner who are—
 - (aa) under the age of 21; or
 - (bb) dependants of the person or the person's spouse or civil partner;

“self-employed person” means—

- (a) in relation to an EEA national, a person who is self-employed within the meaning of article 7 of Directive 2004/38 or the EEA Agreement, as the case may be; or
- (b) in relation to a Swiss national, a person who is a self-employed person within the meaning of Annex 1 to the Swiss Agreement;

“settled” has the meaning given by section 33(2A) of the Immigration Act 1971^{M17};

“Swiss Agreement” means the Agreement between the EU and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999^{M18} and which came into force on 1st June 2002;

“Swiss employed person” means a Swiss national who is an employed person, other than a Swiss frontier employed person, in the United Kingdom;

“Swiss frontier employed person” means a Swiss national who—

- (a) is an employed person in England; and
- (b) resides in Switzerland or in the territory of an EEA State other than the United Kingdom and returns to the national's residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss frontier self-employed person” means a Swiss national who—

- (a) is a self-employed person in England; and
- (b) resides in Switzerland or in the territory of an EEA State, other than the United Kingdom, and returns to the national's residence in Switzerland or that EEA State, as the case may be, daily or at least once a week;

“Swiss self-employed person” means a Swiss national who is a self-employed person, other than a Swiss frontier self-employed person, in the United Kingdom;

“worker” means a worker within the meaning of article 7 of Directive 2004/38 or the EEA Agreement as the case may be.

(2) For the purposes of this Schedule, “parent” means a parent, guardian or any other person having parental responsibility and “child” is to be construed accordingly.

(3) For the purposes of this Schedule, a person is not to be treated as ordinarily resident in a place unless that person lawfully resides in that place.

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(4) For the purposes of this Schedule, a person who is ordinarily resident in England, Wales, Scotland, Northern Ireland or the Islands, as a result of having moved from another of those areas for the purpose of undertaking—

- (a) the designated course; or
- (b) a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course,

is to be considered to be ordinarily resident in the place from which the person moved.

(5) For the purposes of this Schedule, a person (“A”) is to be treated as ordinarily resident in England, the United Kingdom and Islands, the territory comprising the European Economic Area and Switzerland or the territory comprising the European Economic Area, Switzerland and Turkey if A would have been so resident but for the fact that—

- (a) A;
- (b) A's spouse or civil partner; or
- (c) in the case of a dependent direct relative in the ascending line, A's child or child's spouse or civil partner,

is or was temporarily employed outside the area in question.

(6) For the purposes of sub-paragraph (5), temporary employment outside of England, the United Kingdom and Islands, the territory comprising the European Economic Area and Switzerland or the territory comprising the European Economic Area, Switzerland and Turkey includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces; and
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside of the territory comprising the European Economic Area and Switzerland as members of such forces; and
- (c) in the case of members of the regular armed forces of Turkey, any period which they serve outside of the territory comprising the European Economic Area, Switzerland and Turkey as members of such forces.

(7) For the purposes of this Schedule an area which —

- (a) was previously not part of the EU or the European Economic Area; but
- (b) at any time before or after these Regulations come into force has become part of one or other or both of these areas,

is to be considered to have always been a part of the European Economic Area.

(8) For the purposes of this Schedule, an eligible prisoner is to be considered ordinarily resident in the part of the United Kingdom where the prisoner resided prior to sentencing.

Marginal Citations

M17 Section 33(2A) was inserted by paragraph 7 of Schedule 4 to the [British Nationality Act 1981 \(c.61\)](#).

M18 Cm. 4904.

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PART 2

Categories

Persons who are settled in the United Kingdom

[^{F66}2.—(1) A person—

- (a) who on the first day of the first academic year of the course—
 - (i) is settled in the United Kingdom other than by reason of having acquired the right of permanent residence;
 - (ii) is ordinarily resident in England; and
 - (iii) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
- (b) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in sub-paragraph (a)(iii) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (b) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(5).]

Textual Amendments

F66 Sch. 1 para. 2 substituted (12.6.2017) by [The Education \(Postgraduate Masters Degree Loans\) \(Amendment\) Regulations 2017 \(S.I. 2017/594\)](#), regs. 1(1), 2(7)(a)

3. A person who—

- (a) is settled in the United Kingdom by virtue of having acquired the right of permanent residence;
- (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 three-year period 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 before the period of ordinary residence referred to in paragraph (c).

Refugees and their family members

4.—(1) A person who—

- (a) is a refugee;
- (b) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since the person was recognised as a refugee; and
- (c) is ordinarily resident in England on the first day of the first academic year of the course.

(2) A person who—

- (a) is the spouse or civil partner of a refugee;
- (b) was the spouse or civil partner of the refugee on the date on which the refugee made the application for asylum;

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- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
 - (d) is ordinarily resident in England on the first day of the first academic year of the course.
- (3) A person who—
- (a) is the child of a refugee or the child of the spouse or civil partner of a refugee;
 - (b) on the date on which the refugee made the application for asylum, was the child of the refugee or the child of a person who was the spouse or civil partner of the refugee on that date;
 - (c) was under 18 on the date on which the refugee made the application for asylum;
 - (d) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and
 - (e) is ordinarily resident in England on the first day of the first academic year of the course.

[^{F67}Persons granted stateless leave and their family members

Textual Amendments

F67 Sch. 1 para. 4A inserted (with application in accordance with reg. 1(4) of the amending S.I.) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2018 \(S.I. 2018/137\)](#), regs. 1(2), **14(3)**

- 4A.**—(1) A person granted stateless leave who—
- (a) is ordinarily resident in England on the first day of the first academic year of the course; and
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (2) A person—
- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
 - (b) who is ordinarily resident in England on the first day of the first academic year of the course; and
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (3) A person—
- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;
 - (b) was under 18 on the leave application date;

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- (c) is ordinarily resident in England on the first day of the first academic year of the course; and
 - (d) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.
- (4) In this paragraph, “leave application date” means the date on which the person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971).]

[^{F68}Persons granted section 67 leave

Textual Amendments

F68 Sch. 1 para. 4B inserted (with application in accordance with [reg. 1\(2\)\(3\)\(5\)](#) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) Regulations 2019 \(S.I. 2019/142\)](#), [regs. 1\(1\), 45](#)

4B. A person granted section 67 leave who—

- (a) is ordinarily resident in England on the first day of the first academic year of the course; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.]

[^{F69}Persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse

Textual Amendments

F69 Sch. 1 para. 4C inserted (with application in accordance with [reg. 1\(3\)\(a\)](#) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), [regs. 1\(1\), 2\(5\)\(c\)](#)

4C. A person—

- (a) granted indefinite leave to remain in the United Kingdom under any of the following provisions of the immigration rules, as defined in section 33(1) of the Immigration Act 1971—
 - (i) paragraph 289B (victims of domestic violence);
 - (ii) paragraph D-DVILR.1.1. of Appendix FM (victims of domestic abuse); or
 - (iii) paragraph 40 of Appendix Armed Forces (victims of domestic violence: partners of members of the armed forces);
- (b) who has been ordinarily resident in the United Kingdom and the Islands since the person was granted such leave; and
- (c) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course.]

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^{F70}Persons granted Calais leave

Textual Amendments

F70 Sch. 1 para. 4D inserted (with application in accordance with reg. 1(3)(b) of the amending S.I.) by [The Education \(Student Fees, Awards and Support etc.\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/48\)](#), regs. 1(1), **3(5)(c)**

4D. A person who—

- (a) has extant leave to remain in the United Kingdom under paragraph 352J, 352K, 352L or 352T (Calais leave and “leave in line” granted by virtue of being a dependent child of a person granted Calais leave) of the immigration rules, as defined in section 33(1) of the Immigration Act 1971;
- (b) has been ordinarily resident in the United Kingdom and the Islands since the person was first granted such leave;
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the United Kingdom and the Islands throughout the three-year period preceding the first day of the first academic year of the course.]

Persons granted humanitarian protection and their family members

5.—(1) A person granted humanitarian protection who—

- (a) is ordinarily resident in [^{F71}England] on the first day of the first academic year of the course; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(2) A person who—

- (a) is the spouse or civil partner of a person granted humanitarian protection;
- (b) was the spouse or civil partner of the person granted humanitarian protection on the date on which that person applied for asylum (the “asylum application date”);
- (c) is ordinarily resident in [^{F72}England] on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

(3) A person who—

- (a) is the child of a person granted humanitarian protection or the child of the spouse or civil partner of a person granted humanitarian protection;
- (b) on the asylum application date, was the child of that person or the child of a person who was the spouse or civil partner of the person granted humanitarian protection on that date;
- (c) was under 18 on the asylum application date;
- (d) is ordinarily resident in [^{F73}England] on the first day of the first academic year of the course; and
- (e) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course.

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Textual Amendments

- F71** Word in Sch. 1 para. 5(1)(a) substituted (27.2.2018) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2018 \(S.I. 2018/137\)](#), regs. 1(2), **15**
- F72** Word in Sch. 1 para. 5(2)(c) substituted (27.2.2018) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2018 \(S.I. 2018/137\)](#), regs. 1(2), **15**
- F73** Word in Sch. 1 para. 5(3)(d) substituted (27.2.2018) by [The Education \(Student Fees, Awards and Support\) \(Amendment\) Regulations 2018 \(S.I. 2018/137\)](#), regs. 1(2), **15**

Workers, employed persons, self-employed persons and their family members

6.—(1) A person who—

- (a) is—
- (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in paragraph (iv) or (v);
- (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

7. A person who—

- (a) is ordinarily resident in England on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 12 of Council Regulation ([EEC](#)) No. 1612/68 on the freedom of movement of workers^{M19}, as extended by the EEA Agreement.

Marginal Citations

M19 OJ No L257, 19.10.1968, p2 (OJ/SE 1968 (II) p475).

Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere

8.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in England and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence;

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- (c) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (d) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) in a case where the person's ordinary residence referred to in paragraph (d) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (d).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who has a right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and has a right of permanent residence, if the person goes to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

EU nationals

9.—(1) A person who—

- (a) is either—
 - (i) an EU national on the first day of the first academic year of the course; or
 - (ii) a family member of a such a person;
- (b) is attending or undertaking a designated course in England;
- (c) has been ordinarily resident in the territory comprising the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the European Economic Area and Switzerland has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the European Economic Area and Switzerland in accordance with paragraph [F74]1(5).

(3) 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 or the family member of a national of that state, the requirement in paragraph (a) of sub-paragraph (1) to be an EU national on the first day of the first academic year of the course is treated as being satisfied.

Textual Amendments

F74 Word in Sch. 1 para. 9(2) substituted (12.6.2017) by [The Education \(Postgraduate Masters Degree Loans\) \(Amendment\) Regulations 2017 \(S.I. 2017/594\)](#), regs. 1(1), **2(7)(b)**

10.—(1) A person who—

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- (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 three-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 higher 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 sub-paragraph (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.

Children of Swiss nationals

11. A person who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement;
- (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 territory comprising the European Economic Area and Switzerland throughout the three-year period 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 before the period of ordinary residence referred to in paragraph (c).

Children of Turkish workers

12. A person who—

- (a) is the child of a Turkish worker;
- (b) is ordinarily resident in England on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.

Long Residence

[^{F75}13.—(1) A person—

- (a) who on the first day of the first academic year of the course either—
 - (i) is under the age of 18 and has lived in the United Kingdom throughout the seven-year period preceding the first day of the first academic year of the course; or
 - (ii) is aged 18 or above and, preceding the first day of the first academic year of the course, has lived in the United Kingdom throughout either—
 - (aa) half their life; or

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- (bb) a period of twenty years;
 - (b) who is ordinarily resident in England;
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and
 - (d) subject to sub-paragraph (2), whose residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.
- (2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(5).]

Textual Amendments

F75 Sch. 1 para. 13 substituted (12.6.2017) by [The Education \(Postgraduate Masters Degree Loans\) \(Amendment\) Regulations 2017 \(S.I. 2017/594\)](#), regs. 1(1), **2(7)(c)**

SCHEDULE 2

Regulations 15 and 18

INFORMATION

1. Every applicant and eligible student must, as soon as reasonably practicable after being requested to do so, provide the Secretary of State with such information as the Secretary of State considers the Secretary of State requires for the purposes of these Regulations.
2. Every applicant and eligible student must forthwith inform the Secretary of State and provide the Secretary of State with particulars if any of the following occurs—
 - (a) the applicant or student withdraws, is suspended, abandons or is expelled from their course;
 - (b) the applicant or student transfers to any other course at the same or at a different institution;
 - (c) the applicant or student is absent from the course;
 - (d) the month for the start or completion of the course changes;
 - (e) the applicant or student's home or term-time address or telephone number changes;
 - (f) the applicant or student becomes, or ceases to be, a prisoner or eligible prisoner.
3. Information provided to the Secretary of State pursuant to these Regulations must be in the format that the Secretary of State requires and, if the Secretary of State requires the information to be signed by the person providing it, an electronic signature in such form as the Secretary of State may specify satisfies such a requirement.

^{F76}SCHEDULE 3

Regulations 69, 73, 74, 75 and 76

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Textual Amendments

F76 Sch. 3 omitted (5.9.2017) by virtue of [The Repayment of Student Loans and Postgraduate Masters Degree Loans \(Amendment\) Regulations 2017 \(S.I. 2017/831\)](#), regs. 1(1), **41(3)**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide the making of loans to eligible students for postgraduate master's degree courses which begin on or after 1st August 2016 and set out the repayment terms of such a loan. With the exception of regulation 97(1), which applies to Wales, and regulation 97(2), which extends to Northern Ireland, these Regulations apply in relation to England only; however these Regulations extend to all of the United Kingdom in so far as they impose any obligation, or confer any power, on HMRC, an employer or a borrower in relation to repayments under chapters 3 or 4 of Part 2 or on any other person in relation to the retention or production of information or records. Part 1 sets out the loan terms. Regulation 3 sets out who can be considered an eligible student for the purposes of a postgraduate master's degree loan. Regulation 4 sets out which courses are deemed designated courses for which an eligible student can receive a loan. Regulation 5 sets out when a student ceases to be considered an eligible student. Regulation 6 recognises that an eligible student may transfer to another course in certain circumstances. Regulations 7 and 8 set out the circumstances in which a student may qualify for a postgraduate master's degree loan after the designated course has started. Regulations 9 to 11 deal with the formalities of how an eligible student applies for a loan, including the application deadlines. Regulations 12 and 13 provide that the maximum loan amount an eligible student can receive is £10,000, other than in the case of an eligible prisoner, where the maximum amount is the value of the fees of the designated course. Regulation 13 gives the Secretary of State the power to pay any loan in instalments and provides that payments are made directly to the student's bank account, other than in the case of an eligible prisoner where the payment is made to the institution to which the prisoner is liable to make payment for the fees or to a third party. Regulation 14 gives the Secretary of State the power to make payment of the loan conditional upon the student providing the Secretary of State with a national insurance number. Regulation 15 places an obligation on the Secretary of State to cease further loan payments if he receives notice of a student's lack of attendance on the course, other than where the Secretary of State believes it appropriate to consider making such payments during the student's absence. However, if the student recommences the full course, the Secretary of State may decide to recommence further payments. Regulation 16 sets out how loan entitlement amounts change when an eligible student becomes an eligible prisoner and vice versa. Regulation 17 sets out how the Secretary of State can recover any overpayments of a postgraduate master's degree loan. Regulation 18 deals with information requirements. Part 2 sets out the repayment terms of the loan, and how this is managed by an employer and HMRC.

Regulations 22 to 24 set out the functions of HMRC in relation to monies collected by it and how the penalty regime set out in the Taxes Management Act 1970 will be applied to the repayments system. Regulation 25 sets out how repayments made by borrowers will be applied to outstanding penalties, charges, costs, interest and principal. Regulation 26 sets out that a borrower may repay all or any part of the loan at any time, however, a borrower is not required to repay any part of the postgraduate master's degree loan before the start of the following tax year commencing on

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6th April after a borrower ceases to be an eligible student, and no borrower is required to repay any part of the loan until on or after 6th April 2019. A borrower's liability to repay a loan will end only if the loan is cancelled, repaid in full, or if other specified events occur. Regulation 27 provides that repayments made directly to the Secretary of State or by direct debit are credited to the borrower's account on the date of receipt. Repayments made through self-assessment are credited to the borrower's account on 31 January in the tax year following the tax year for which those repayments are due. Regulation 28 provides that a borrower may repay through direct debit at the end of life of their loan to prevent over-repayment through the tax system if they request it, and previous attempts at payment by this method have not failed as a result of the direct debit being refused or cancelled without permission. A borrower can agree to re-enter the PAYE system at any time. Regulation 29 sets out that loans are cancelled when a borrower dies, is permanently disabled, or as of the 30th anniversary of the date on which the borrower became liable to repay the loan. Regulation 30 provides that if a borrower repays more than is owed to the Secretary of State, any over-payment is repaid with interest. Regulation 31 sets out that the interest rate is the retail price index plus 3%. Regulations 32 to 37 provide that the Secretary of State may require the borrower to provide personal details, and may apply penalties to the borrower if the borrower fails to comply with these requirements. In addition to specific penalties for failing to comply, if the Secretary of State incurs any costs in obtaining information which the borrower is required to provide, he can recover such costs by adding them to the balance of the loan (regulation 35). The Secretary of State has the power to require the borrower to repay the loan in full immediately if the borrower fails to comply with the information obligations or to pay penalties.

Chapter 3 deals with repayment of loans through the self-assessment system for borrowers required to submit a self-assessment tax return. Regulation 38 provides that provisions of the Taxes Management Act 1970 dealing with payment of income tax through self-assessment are extended to cover repayment of loans, and loan repayments through self-assessment are treated like income tax. Regulation 39 provides that a borrower repays 6% of the borrower's total income per annum on income over £21,000, although certain exclusions and reliefs are applied to the calculation of the borrower's income for these purposes. Regulations 40 and 41 sets out HMRC has the power to require the borrower to disclose information about the loan in the borrower's annual return. Regulations 42 and 43 contain provisions regarding the storing and treatment of returns. Regulation 44 deals with assessments, claims and appeals. Regulation 45 deals with how a repayment must be made. Regulations 46 to 50 deal with interest and penalty payments.

Chapter 4 deals with how borrowers who are employees repay student loans through their employers. Regulation 54 sets out that an employer must deduct 6% of the borrower's total income per annum on income over £21,000. Regulations 55 and 56 set out how the employer must calculate earnings and earnings periods as set out in the Social Security (Contributions) Regulations 2001. Regulations 57 and 58 sets out provisions relating to the situation where there are multiple employers or intermediate employers. Regulations 59, 60 and 62 set out how an employer must make the deduction of repayments. Regulation 61 gives the employer directions as to how deductions from the employee's earnings rank against other deductions that the employer may be made to make. Regulation 63 provides where an employer is required to give a certificate of earnings to the employee, the employer must note on the certificate the amount of deductions regarding the loan made by the employer. Regulations 64 to 66 set out how the employer must make the repayments. Regulation 57 provides that HMRC may recover any sums owing by employers as though they were income tax and may recover student loan repayments in the same cause of action as outstanding National Insurance contributions or tax. Regulation 68 sets out that where an employer has not made the due payments, HMRC must charge interest at the rate applicable under the Finance Act 2009. Regulations 69, 71 and 73 set out the information that an employer must give HMRC. Regulation 70 sets out an exception to Regulation 69 in circumstances where the employer pays the employee on the date that employee does the work, and Regulation 74 provides exceptions to Regulation 69 for certain types of business. Regulation 72 deals with situations where the employer makes payments to an employee which are deemed notional payments under the Income Tax (Earnings & Pensions) Act 2003.

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Regulation 75 sets out the procedure an employer must follow if the employer discovers an inaccuracy in the details it has submitted in relation to an employee. Regulation 76 provides that an employer must make a return in the following tax year, where the employer has omitted to make a return in one year. Regulations 77 and 78 provide that the inspection powers of the Finance Act 2008, with modifications, also apply to the inspection of an employer's records under these Regulations. Regulations 79 and 80 provide that where HMRC thinks that employer has underpaid, it may demand the full payment and charge interest. Regulation 81 sets out that where an employer dies, anything which that employer was liable to do must be done by the employer's personal representative, or by the person succeeding that employer. Regulation 82 sets out that no subsequent employer is liable for the payment of repayments deducted from an employee's earnings before the change of employer, unless those repayments are also deductible from earnings paid to the employee after the change of employer. Regulation 83 provides that payments made by cheque are treated as paid on the date of receipt. Regulation 84 provides that where an employee leaves employment, and the employer has notice that the employee is a borrower, the employer must state on the P45 that the employee is a borrower. Regulation 85 provides that an employer who either fraudulently or negligently makes incorrect deductions or makes or receives incorrect payments in a tax year for an employee is liable to a penalty of £3000 for each incorrect deduction or payment. Regulation 86 applies the provisions regarding recovery of penalties of the Taxes Management Act 1970 to the penalties set out in chapter 4. Chapter 5 provides for repayment by borrowers who are not resident in the UK for income tax purposes. Regulation 89 provides that a borrower must notify the Secretary of State for any period of residence outside the UK in excess of 3 months. Under regulation 90 the Secretary of State has the power to require any such borrower to repay the loan in fixed instalments calculated in accordance with Regulation 93, and if the borrower does not make such a payment when due, the Secretary of State can demand the full repayment of the loan immediately (Regulation 95). Regulation 97 provides that in relation to borrowers in England & Wales, and Northern Ireland sums by way of postgraduate master's degree loans which are received by the borrower, or to which the borrower is entitled, after the borrower is declared bankrupt, do not form part of the bankrupt's estate for the purposes of the bankruptcy.

An impact assessment of the effect that these Regulations will have on the costs of business, the voluntary sector and the public sector will be available from the Higher Education Policy Team, Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET before the end of the Parliamentary praying period for this instrument and will be published alongside this instrument and its Explanatory Memorandum on www.legislation.gov.uk.

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