
STATUTORY INSTRUMENTS

2023 No. 74

The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023

PART 3

Corresponding amendments to other subordinate legislation

CHAPTER 1

The Education (Fees and Awards) (England) Regulations 2007

SECTION 3

Qualifying persons

Amendments relating to the ordinary residence requirements for persons in existing protected categories

- 60.**—(1) Schedule 1 (eligible students)(1) is amended as follows.
- (2) In paragraph 4 (refugees and their family members)—
- (a) in sub-paragraph (1)(c), for “the first day of the first academic year of the course” substitute “the course start date”;
 - (b) in sub-paragraph (2)(d), for “the first day of the first academic year of the course” substitute “the course start date”;
 - (c) in sub-paragraph (3)(e), for “the first day of the first academic year of the course” substitute “the course start date”.
- (3) In paragraph 4A (persons granted stateless leave and their family members)—
- (a) in sub-paragraph (1), for “the first day of the first academic year of the course” substitute “the course start date”;
 - (b) in sub-paragraph (2)(c), for “the first day of the first academic year of the course” substitute “the course start date”;
 - (c) in sub-paragraph (3)(d), for “the first day of the first academic year of the course” substitute “the course start date”.
- (4) In paragraph 4B(c) (persons granted section 67 leave), for “the first day of the first academic year of the course” substitute “the course start date”.

(1) Paragraph 4A was inserted by [S.I. 2018/137](#) and amended by [S.I. 2020/1203](#). Paragraph 4B was substituted by [S.I. 2020/1203](#). Paragraph 4C was inserted by [S.I. 2020/48](#). Paragraph 4D was substituted by [S.I. 2020/1203](#) and amended by [S.I. 2021/1348](#). Paragraph 4E was inserted by [S.I. 2020/1203](#). Paragraph 5 was substituted by [S.I. 2011/87](#) and amended by [S.I. 2020/1203](#). Paragraph 5B was inserted by [S.I. 2022/534](#).

(5) In paragraph 4C(c) (persons granted indefinite leave to remain as a victim of domestic violence or domestic abuse), for “the first day of the first academic year of the course” substitute “the course start date”.

(6) In paragraph 4D(c) (persons granted Calais leave), for “the first day of the first academic year of the course” substitute “the course start date”.

(7) In paragraph 4E(c) (persons granted indefinite leave to remain as a bereaved partner), for “the first day of the first academic year of the course” substitute “the course start date”.

(8) In paragraph 5 (persons granted humanitarian protection and their family members)—

(a) in sub-paragraph (1), for “the first day of the first academic year of the course” substitute “the course start date”;

(b) in sub-paragraph (2)(d), for “the first day of the first academic year of the course” substitute “the course start date”;

(c) in sub-paragraph (3)(e), for “the first day of the first academic year of the course” substitute “the course start date”.

(9) In paragraph 5A (persons granted leave under one of the Afghan Schemes), for “the first day of the first academic year of the course” substitute “the course start date”.

(10) In paragraph 5B (evacuated or assisted British nationals from Afghanistan), for “the first day of the first academic year of the course” substitute “the course start date”.

Commencement Information

II Reg. 60 in force at 16.2.2023, see [reg. 1](#)

Amendments relating to students who fall within in a paragraph of Schedule 1 after the start of a course

61. In regulation 2(3A) (interpretation)(2), after “place”, in the second place it occurs, insert “(but see also regulation 4(2A) and (2B))”.

62. In regulation 4 (fee charging)(3), for paragraph (2) substitute—

“(2) For the purposes of this regulation, a person falls within a paragraph of Schedule 1 if—

(a) in the case of paragraph 2A, 4, 4A, 4B, 4C, 4D, 4E, 5, 5A, 5B, 5C, 8 or 8A of that Schedule—

(i) in relation to the first academic year of the course, they fall within that paragraph on the course start date; or

(ii) in relation to any other academic year of the course, they fall within that paragraph on the first day of that academic year;

(b) in the case of any other paragraph of that Schedule, they fall within the relevant paragraph on the first day of an academic year of the course.

(2A) Where a protected category event occurs in relation to a person after the course start date, paragraph (2B) applies for the purposes of determining whether the person falls within a paragraph of Schedule 1 in relation to an academic year (other than the first academic year).

(2) Paragraph (3A) was inserted by [S.I. 2012/1653](#).

(3) Regulation 4 was amended by [S.I. 2012/765](#), [2019/1027](#), [2021/127](#), [2021/929](#) and [2021/1348](#).

(2B) The person is to be treated, for the purposes of determining whether they satisfy any requirement in Schedule 1 to be ordinarily resident in the United Kingdom on the course start date, as if they were, on the course start date, lawfully residing in the place where they were residing on that date.

(2C) In this regulation “protected category event”, in relation to a person, means—

- (a) the person or the person’s spouse, civil partner or parent is recognised as a refugee or becomes a person granted stateless leave or a person granted humanitarian protection;
- (b) the person becomes a person granted section 67 leave;
- (c) the person becomes a person granted indefinite leave to remain as a victim of domestic violence or domestic abuse;
- (d) the person becomes a person granted Calais leave;
- (e) the person becomes a person granted indefinite leave to remain as a bereaved partner;
- (f) the person becomes a person granted leave under one of the Afghan Schemes.
- (g) the person becomes a person granted leave under one of the Ukraine Schemes;

(2D) For the purposes of paragraph (2C), the following terms have the meanings given for the purposes of Schedule 1—

- (a) refugee;
- (b) person granted stateless leave;
- (c) person granted humanitarian protection;
- (d) person granted section 67 leave;
- (e) person granted indefinite leave to remain as a victim of domestic violence or domestic abuse;
- (f) person granted Calais leave;
- (g) person granted indefinite leave to remain as a bereaved partner;
- (h) person granted leave under one of the Afghan Schemes;
- (i) person granted leave under one of the Ukraine Schemes.”

Commencement Information

I2 Reg. 61 in force at 16.2.2023, see [reg. 1](#)

I3 Reg. 62 in force at 16.2.2023, see [reg. 1](#)

Amendments relating to family members of persons granted leave under one of the Afghan Schemes or one of the Ukraine Schemes

63. In regulation 4(2C) (as inserted by regulation 62 of these Regulations)—

- (a) in sub-paragraph (f), after “the person” insert “or the person’s spouse, civil partner or parent”;
- (b) in sub-paragraph (g), after “the person” insert “or the person’s spouse, civil partner or parent”.

64.—(1) Schedule 1 (eligible students) (as amended by regulations 59 and [60\(9\)](#) of these Regulations) is amended as follows.

- (2) In paragraph 1(1)—
- (a) in the definition of “person granted leave under the Afghan Citizens Resettlement Scheme”, for paragraph (a) (other than “and” at the end) substitute—
- “(a) who has indefinite leave to enter or remain in the United Kingdom, outside the immigration rules, on the basis of the Afghan Citizens Resettlement Scheme;”;
- (b) in the definition of “person granted leave under the Afghan Relocations and Assistance Policy Scheme”—
- (i) insert “or” at the end of paragraph (a)(ii);
- (ii) at the end of paragraph (a)(iii), for “or” substitute “and”;
- (iii) omit paragraph (a)(iv).
- (3) In paragraph 5A—
- (a) for the heading substitute—
- “Persons granted leave under one of the Afghan Schemes and their family members”;*
- (b) the existing text becomes sub-paragraph (1);
- (c) after that sub-paragraph insert—
- “(2) A person who—
- (a) is the spouse or civil partner of a person granted leave under one of the Afghan Schemes;
- (b) on the leave application date, was the spouse or civil partner of that person;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom; and
- (d) is ordinarily resident in the United Kingdom on the course start date.
- (3) A person who—
- (a) is—
- (i) the child of a person granted leave under one of the Afghan Schemes; or
- (ii) the child of the spouse or civil partner of a person granted leave under one of the Afghan Schemes;
- (b) on the leave application date was—
- (i) the child of the person granted leave under one of the Afghan Schemes; or
- (ii) the child of a person who was the spouse or civil partner of a person granted leave under one of the Afghan Schemes on that date;
- (c) was under 18 on the leave application date;
- (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 the United Kingdom on the course start date.
- (4) In this paragraph “leave application date” means the date on which the person granted leave under one of the Afghan Schemes made an application for leave to enter or remain in the United Kingdom.”.

(4) For paragraph 5C (including the heading)(4) substitute—

“Persons granted leave under one of the Ukraine Schemes and their family members

5C.—(1) A person granted leave under one of the Ukraine Schemes, who is ordinarily resident in the United Kingdom on the course start date.

(2) A person who—

- (a) is the spouse or civil partner of a person granted leave under one of the Ukraine Schemes;
- (b) on the leave application date, was the spouse or civil partner of that person;
- (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom; and
- (d) is ordinarily resident in the United Kingdom on the course start date.

(3) A person who—

- (a) is—
 - (i) the child of a person granted leave under one of the Ukraine Schemes; or
 - (ii) the child of the spouse or civil partner of a person granted leave under one of the Ukraine Schemes;
- (b) on the leave application date, was—
 - (i) the child of the person granted leave under one of the Ukraine Schemes; or
 - (ii) the child of a person who was the spouse or civil partner of a person granted leave under one of the Ukraine Schemes on that date;
- (c) was under 18 on the leave application date;
- (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 the United Kingdom on the course start date.

(4) In this paragraph “leave application date” means the date on which the person granted leave under one of the Ukraine Schemes made an application for leave to enter or remain in the United Kingdom.”.

Commencement Information

- I4** Reg. 63 in force at 16.2.2023, see [reg. 1](#)
- I5** Reg. 64 in force at 16.2.2023, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Education (Student Fees, Awards and Support) (Amendment) Regulations 2023, Cross Heading: SECTION 3.