
STATUTORY INSTRUMENTS

2007 No. 779

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

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Fees and Awards) (England) Regulations 2007 and come into force on 1st September 2007.

(2) These Regulations apply in relation to England⁽¹⁾.

Interpretation

2.—(1) In these Regulations—

“the 2005 Act” means the Education Act 2005⁽²⁾;

“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;

“award” means a fees award or a maintenance award or both;

“education” includes post-graduate research otherwise than in the course of employment;

“employment” means full-time or part-time employment;

“European Community” means the territory comprised by the Member States of the European Community as constituted from time to time;

“European Economic Area” means the area comprised by the EEA States;

“fees award” means an award in respect only of any fees payable other than any element of those fees which is a charge for maintenance;

“HEFCE” means the Higher Education Funding Council for England⁽³⁾;

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

“LSC” means the Learning and Skills Council for England⁽⁴⁾;

“maintenance award” means any award other than a fees award;

“overseas territories” means Anguilla; Aruba; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Montserrat; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten);

(1) The functions of the Secretary of State under section 1 of the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by [S.I. 2006/1458](#) with effect from 8th June 2006. The remaining functions under the Education (Fees and Awards) Act 1983, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by [S.I. 1999/672](#) with effect from 1st July 1999.

(2) [2005 c.18](#).

(3) established under section 62 of the Further and Higher Education Act 1992.

(4) established under section 1 of the Learning and Skills Act 2000.

Pitcairn, Henderson, Ducie & Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan de Cunha); St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; Turks and Caicos Islands and Wallis and Futuna;

“post-compulsory education award” means a scholarship, exhibition, bursary or other allowance granted by a local education authority under the Local Education Authority (Post-Compulsory Education Awards) Regulations 1999⁽⁵⁾;

“training provider” means a person who provides training for members of the school workforce under Part 3 of the 2005 Act;

(2) Despite section 11 of the Interpretation Act 1978⁽⁶⁾ section 3(2) of the Education (Fees and Awards) Act 1983 (references to the United Kingdom to include references to the Islands) shall not apply for the purposes of interpreting these Regulations.

(3) For the purposes of these Regulations, “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child and “child” is to be construed accordingly.

(4) For the purposes of these Regulations, a person is to be treated as ordinarily resident in England, England and Wales, Great Britain, the United Kingdom, the United Kingdom and Islands, in the territory comprising the European Economic Area and Switzerland, in the territory comprising the European Economic Area, Switzerland and the overseas territories, or in the territory comprising the European Economic Area, Switzerland and Turkey if he would have been so resident but for the fact that—

- (a) he;
- (b) his spouse or civil partner;
- (c) his parent; or
- (d) in the case of dependent direct relative in the ascending line, his child or child’s spouse or civil partner,

is or was temporarily employed outside the area in question.

(5) For the purposes of paragraph (4), temporary employment 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;
- (b) in the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside 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 the territory comprising the European Economic Area, Switzerland and Turkey as members of such forces.

(6) For the purposes of Regulations 6, 7, 8 and 9 a person is to be treated as ordinarily resident in England, England and Wales, Great Britain, the United Kingdom, the United Kingdom and Islands, in the territory comprising the European Economic Area and Switzerland, in the territory comprising the European Economic Area, Switzerland and the overseas territories, or in the territory comprising the European Economic Area, Switzerland and Turkey if he would have been so resident but for the fact that—

- (a) he;
- (b) his spouse or civil partner;

⁽⁵⁾ S.I. 1999/229, amended by S.I. 2000/2057, and revoked in relation to Wales by S.I. 2002/1856.

⁽⁶⁾ 1978 c.30.

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

was temporarily receiving full-time education outside the area in question.

- (7) For the purposes of these Regulations an area which—
 - (a) was previously not part of the European Community or the European Economic Area; but
 - (b) at any time before or after these Regulations come into force has become part of one or the other or both of these areas,

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

Lawful acts

3.—(1) If discrimination arises from the remission in whole or in part of any fee (on grounds of financial hardship or otherwise), nothing in these Regulations shall be construed as rendering that discrimination unlawful, if it would have been lawful had these Regulations not been made.

(2) If discrimination arises from any rule of eligibility for an award, nothing in these Regulations shall be construed as rendering that discrimination unlawful, if it would have been lawful had these Regulations not been made.

Fee charging

4.—(1) It shall be lawful for the institutions mentioned in paragraph (3) to charge higher fees in the case of a person who does not fall within Schedule 1 than in the case of a person who does fall within Schedule 1.

(2) For the purposes of this regulation a person falls within Schedule 1 if they fall within it on the first day of an academic year of the course.

- (3) The institutions mentioned in this paragraph are institutions—
 - (a) within the higher education sector, including a constituent college, school or hall of such an institution;
 - (b) within the further education sector;
 - (c) which are training providers and are receiving financial support under section 78 of the 2005 Act;
 - (d) which provide further education and are maintained by a local education authority;

(4) This regulation does not make lawful the charging of a fee which is unlawful by reason of a condition imposed under section 24 of the Higher Education Act 2004(7).

Awards by local education authorities

5.—(1) It shall be lawful for a local education authority to adopt rules of eligibility for awards under sections 1(6) or 2 of the Education Act 1962(8) or for post-compulsory education awards which—

- (a) do not take account of regulation 2(4);

(7) 2004 c.8.

(8) 1962 c.12. The Education Act 1962 was repealed by the Teaching and Higher Education Act 1998, subject to transitional and saving provisions to enable payments to be made pursuant to awards made under the Act before its repeal, and to enable awards to be made in respect of courses beginning before 1st September 1999 and certain courses beginning after that date.

- (b) confine eligibility in the case of fees awards to those persons who fall within Schedule 1, excluding those who fall within paragraph 5, or
- (c) confine eligibility in the case of maintenance awards to those persons who fall within Schedule 1, excluding those who fall within paragraphs 5 and 9.

Awards by research councils and others

6.—(1) It shall be lawful for a research council or institution mentioned in Schedule 2 to adopt rules of eligibility which—

- (a) do not take account of regulation 2(4);
- (b) confine eligibility in the case of fees awards in connection with courses of education or training or the undertaking of research to those persons who fall within Schedule 1, excluding those who fall within paragraph 5; or
- (c) confine eligibility in the case of maintenance awards in connection with courses of education or training or the undertaking of research to those persons who fall within Schedule 1, excluding those who fall within paragraphs 5 and 9.

(2) As regards paragraphs 2 and 3 of Schedule 1, the research council or institution may, in adopting rules of eligibility under paragraph (1)—

- (a) confine eligibility to those persons who have been ordinarily resident in Great Britain for three years preceding the date of application for the award, or
- (b) exclude from eligibility those persons who are not ordinarily resident in Great Britain, in England and Wales or in England (as the maker of the award may determine) on the date of application for the award.

(3) Where rules of eligibility confine awards to persons who are or will be ordinarily resident in part only of the United Kingdom and Islands, a person who is ordinarily resident in some other part of the United Kingdom and Islands shall not for the purposes of this regulation be considered to fall within paragraph 9 of Schedule 1.

(4) The makers of awards may adopt different eligibility rules for different classes or descriptions of awards.

Payments by the Training and Development Agency for Schools

7.—(1) It shall be lawful for the Training and Development Agency for Schools⁽⁹⁾ to adopt rules of eligibility for awards by any training provider to which it makes grants, loans or other payments under section 78 of the 2005 Act which confine eligibility to those persons who fall within Schedule 1.

(2) It shall be lawful for a training provider who is receiving financial support under section 78 of the 2005 Act to adopt rules of eligibility for awards which confine eligibility to those persons who fall within Schedule 1.

Payments by HEFCE

8.—(1) It shall be lawful for HEFCE to adopt rules of eligibility for awards to be made to students who are being trained (otherwise than by a course leading to a first degree) to teach persons over compulsory school age by an institution to which it makes grants, loans or other payments under

(9) The Teacher Training Agency was established under section 1 of the Education Act 1994 and under section 74 of the Education Act 2005, its name was changed to the Training and Development Agency for Schools. Under section 78 of the Education Act 2005 the Training and Development Agency for Schools may provide financial support to any person it thinks fit in furtherance of its objectives.

section 65 of the Further and Higher Education Act 1992 which confine eligibility to those persons who fall within Schedule 1.

(2) It shall be lawful for an institution to which HEFCE pays grants, loans or other payments for the purpose described in paragraph 1 to adopt rules of eligibility for awards which confine eligibility to those persons who fall within Schedule 1.

Payments by the LSC

9.—(1) It shall be lawful for the LSC to adopt rules of eligibility for awards by an institution to which it makes grants, loans or other payments under section 5 of the Learning and Skills Act 2000 which confine eligibility to those persons who fall within Schedule 1.

(2) It shall be lawful for an institution to which the LSC pays grants, loans or other payments to adopt rules of eligibility for awards (however described) which confine eligibility to those persons who fall within Schedule 1.

Revocation

10.—(1) The following Regulations are revoked in relation to England—

- (a) The Education (Fees and Awards) Regulations 1997(**10**);
- (b) The Education (Fees and Awards) (Amendment) (England) Regulations 2000(**11**);
- (c) The Education (Fees and Awards) (Amendment No 2) (England) Regulations 2000(**12**);
- (d) The Education (Student Fees and Support) (Switzerland) Regulations 2003(**13**);
- (e) The Education (Fees and Awards) (Amendment) Regulations 2006(**14**);
- (f) Regulation 5 of the Local Education Authority (Post-Compulsory Education Awards) Regulations 1999.

8th March 2007

Bill Rammell
Minister of State
Department for Education and Skills

(10) S.I. 1997/1972, amended by S.I. 1999/229, S.I. 2000/2192, S.I. 2000/2945, S.I. 2003/3280, S.I. 2005/2114 and S.I. 2006/483.

(11) S.I. 2000/2192.

(12) S.I. 2000/2945.

(13) S.I. 2003/3280.

(14) S.I. 2006/483.