
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st September 2007, replace the Regulations listed in regulation 10.

The Regulations provide that, in the circumstances described in the Regulations, it shall be lawful to discriminate between some or all of those persons mentioned in Schedule 1, and any other person. Such discrimination might otherwise be unlawful under the Race Relations Act 1976. Nothing in the Regulations is to be construed as rendering unlawful anything done which would have been lawful had the Regulations not been made (*regulation 3*).

Regulation 4 provides that it shall be lawful for the institutions in paragraph (3) to charge higher fees to those people not mentioned in Schedule 1, than those fees charged to people mentioned in that Schedule. Regulation 4(4) refers to section 24 of the Higher Education Act 2004. This section sets out the funding conditions imposed on higher education institutions in relation to fees. Fees for qualifying courses must not exceed certain limits. Regulation 4(4) provides that if an institution breaches the funding condition under section 24, these Regulations will not provide a defence.

Regulation 5 concerns rules of eligibility for discretionary awards made by local education authorities under sections 1(6) or 2 of the Education Act 1962. In the case of awards for fees, eligibility may be confined to everyone in Schedule 1 save for persons with leave to enter or remain. In the case of maintenance awards, rules of eligibility may exclude persons with leave to enter or remain and EC nationals. Local education authorities may confine eligibility further, by excluding anyone who has not been ordinarily resident in a relevant geographical area temporarily because of work.

Regulation 6 concerns for awards by research councils. Again, rules of eligibility for these awards maybe confined by reference to certain categories of person mentioned in Schedule 1, and those rules may be further refined.

Regulations 7, 8 and 9 concern teacher training and certain bodies which fund the provision of education and training. They provide that it shall be lawful for each of the Training and Development Agency for Schools, the Higher Education Funding Council for England and the Learning and Skills Council for England, and institutions funded by them, to adopt rules of eligibility for awards which limit eligibility to those mentioned in Schedule 1.

Regulation 10 revokes, in relation to England, the existing Regulations governing fees and awards and amending Regulations.

The persons mentioned in Schedule 1 include those who are settled in the United Kingdom, refugees, persons with leave to enter or remain in the United Kingdom, migrant workers from the European Economic Area or Switzerland, nationals of Member States of the European Community and children of Swiss nationals and Turkish workers. To be settled in the United Kingdom, you must be ordinarily resident there without being subject under immigration law to any restriction on the period for which you may remain.