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## Higher Education & Student Support

19<sup>th</sup> September 2012

This information sheet provides general information about eligibility for student support for higher education in England. Different arrangements apply in Northern Ireland, Scotland and Wales.

### **The Education (Student Support) Regulations 2011, SI 2011/1986**

These Regulations set out detailed provisions on what student support may be provided, for what courses it may be provided and who may be eligible for it. As regards these three matters:

- student support may be available by way of grants towards housing and living costs, or loans (including towards course fees)
- courses for which student support may be provided include first degrees, various diplomas, initial teacher training, and further training of youth and community workers (Schedule 2 of the Regulations sets out the full list)
- the remainder of this information sheet provides information about who is eligible for student support

### **General information on eligibility, and meaning of ‘ordinarily resident’**

The key provisions of the Regulations are regulation 4 and Part 2 of Schedule 1. Part 2 of Schedule 1 sets out categories of person who are eligible for student support. Regulation 4 sets out circumstances in which someone falling within any of these categories will nonetheless not be eligible. To be eligible for student support, a person must usually be ordinarily resident in England.

The High Court considered the meaning of ‘ordinarily resident’ in *R (Temilola Arogundade) v Secretary of State for Business, Innovation & Skills* [2012] EWHC 2502 (Admin). The High Court concluded that the correct meaning was that given to the same term by the House of Lords in *R (Nilish Shah) v Barnet LBC* [1983] 2 AC 309. Therefore, in relation to student support, ‘ordinarily resident’ means the place a person has chosen to live as part of his or her regular order of life (whether for a short or long time), but a person is not ordinarily resident if his or her presence in the UK is unlawful.

### **Categories of person eligible for student support (Part 2 of Schedule 1)**

There are eleven categories of person eligible for student support. These categories include:

- persons with indefinite leave to remain (settled persons)
- refugees, their spouses, civil partners and children
- persons granted humanitarian protection, their spouses, civil partners and children
- European Economic Area nationals, their family members and others exercising free movement rights under European Union law

Each category sets out conditions that must be met for the person to be eligible for student support.

The conditions relating to settled persons and persons granted humanitarian protection (and their family members) require that the person has been ordinarily resident in the UK throughout the three years leading up to the first day of the first year of the person's course. This condition does not apply to refugees (or their family members).

The conditions applying to the family members of refugees and persons granted humanitarian protection require that:

- the family member must not have ceased to be ordinarily resident in the UK since being given leave to enter or remain in the UK
- in the case of a spouse or civil partner, he or she must have been the spouse or civil partner of the refugee (or person granted humanitarian protection) at the time that person applied for asylum
- in the case of a child, he or she must have been under 18 and the child of the refugee (or of the person granted humanitarian protection) or of the spouse or civil partner of that person, at the time that person applied for asylum

### **Asylum-seekers and other forms of leave (e.g. discretionary leave)**

A significant difference between the current Regulations and previous Regulations is that the current Regulations no longer include a category for persons with limited leave to enter or remain (other than refugees or persons granted humanitarian protection). This change in the Regulations means that persons who would otherwise have been eligible for student support are not eligible. Those who would have been eligible but for this change include:

- Separated children granted discretionary leave (see the “Discretionary Leave & Separated Children” information sheet [<http://tinyurl.com/c8vamq9>]). A separated child refused asylum and granted discretionary leave, who now wished to go to university would not be eligible for student support. Previously, he or she might have been eligible.
- A person, whose case is dealt with as part of the legacy (see the “Legacy Cases” information sheets – see the latest of these at [<http://tinyurl.com/8jog5xt>]), who is granted discretionary leave or other limited leave to remain. Such a person who now wished to go to university would not be eligible for student support. Previously, where the UK Border Agency decided to grant leave in a legacy case, the policy was generally to grant indefinite leave to remain. A person granted indefinite leave to remain (settlement) would be eligible for student support. The change to grants of discretionary leave or other limited leave to remain has meant that many of those now granted leave under legacy are not eligible for student support.

### **Further information**

Further information about student support and eligibility for it is available from the UK Council for International Student Affairs (UKCISA):

<http://www.ukcisa.org.uk/student/>

The following links are to UKCISA information relating to eligibility for student support in England, Northern Ireland, Scotland and Wales:

[http://www.ukcisa.org.uk/student/info\\_sheets/student\\_support\\_england.php](http://www.ukcisa.org.uk/student/info_sheets/student_support_england.php)

[http://www.ukcisa.org.uk/student/info\\_sheets/student\\_support\\_ni.php](http://www.ukcisa.org.uk/student/info_sheets/student_support_ni.php)

[http://www.ukcisa.org.uk/student/info\\_sheets/student\\_support\\_scotland.php](http://www.ukcisa.org.uk/student/info_sheets/student_support_scotland.php)

[http://www.ukcisa.org.uk/student/info\\_sheets/student\\_support\\_wales.php](http://www.ukcisa.org.uk/student/info_sheets/student_support_wales.php)