

**2011 No. 83**

**EDUCATION, ENGLAND**

**The Education (Student Support) (European University Institute)  
Regulations 2010 (Amendment) Regulations 2011**

*Made* - - - - - *17th January 2011*

*Laid before Parliament* *18th January 2011*

*Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred by sections 22, 42(6) and 43(1) of the Teaching and Higher Education Act 1998(a) makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (Student Support) (European University Institute) Regulations 2010 (Amendment) Regulations 2011.

(2) These Regulations come into force on the 22nd day after these Regulations are laid before Parliament.

(3) These Regulations apply in relation to England(b).

2. These Regulations apply in relation to the provision of support to students in relation to an academic year which begins on or after 1st September 2011 whether anything done under these Regulations is done before, on or after 1st September 2011.

**Amendment of the Education (Student Support) (European University Institute) Regulations 2010**

3. The Education (Student Support) (European University Institute) Regulations 2010(c) are amended in accordance with regulations 4 to 7.

4. In regulation 3—

(a) after the definition of “Institute”, insert—

““person granted humanitarian protection” means a person—

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(a) 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, 43 and Schedule 7 and the Apprenticeships, 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”.

(b) In relation to Wales, the functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 were transferred to the Welsh Ministers under section 44 of the Higher Education Act 2004 except so far as they relate to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (f) or (5) of section 22.

(c) S.I. 2010/447.

- (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<sup>(a)</sup>;
  - (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<sup>(b)</sup>); 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;”;
- (b) omit the definition of “person with leave to enter or remain”;
- (c) in the definition of “relevant date”, for “1st May 2010”, substitute “1st February 2011”.

5. In regulation 8(3), for “1st September 2010” substitute “1st September 2011” and for “30th April 2010”, substitute “11th February 2011”.

6. In regulation 9—

- (a) in paragraph (11)(a) and (b), for “person with leave to enter or remain” substitute “person granted humanitarian protection”; and
- (b) in paragraph (15)—
  - (i) for “1st September 2010”, substitute “1st September 2011”,
  - (ii) for “30th April 2010”, substitute “30th April 2011”, and
  - (iii) for “28th February 2011”, substitute “28th February 2012”.

7. In Schedule 1—

- (a) in paragraph 1(1)—
  - (i) within the definition of “family member”, for (a)(ii), substitute—
    - “(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”;
- (b) for paragraph 1(6), substitute—
 

“(6) For the purposes of this Schedule, “parent” includes a guardian and any other person having parental responsibility for a child and “child” is to be construed accordingly.”
- (c) for paragraph 5, substitute—

**“Persons granted humanitarian protection and their family members**

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

- (a) is ordinarily resident in England on the relevant date; and
- (b) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.

(2) A person—

- (a) who is the spouse or civil partner of a person granted humanitarian protection;
- (b) who 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) who is ordinarily resident in England on the relevant date; and

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(a) 1971 c. 77.

(b) 2002 c. 41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), Schedule 2 and the Immigration, Asylum and Nationality Act 2006 (c. 13), section 9.

- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.
- (3) A person—
- (a) who 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) who, 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) who was under 18 on the asylum application date;
  - (d) who is ordinarily resident in England on the relevant date;
  - (e) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the relevant date.”.

17th January 2011

*David Willetts*  
Minister of State for Universities and Science  
Department for Business, Innovation and Skills

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Education (Student Support) (European University Institute) Regulations 2010 (S.I. 2010/447) (the “2010 Regulations”). The 2010 Regulations provide support for eligible students taking designated higher education courses at the European University Institute in respect of an academic year beginning on or after 1st September 2010. The amended Regulations will apply to such courses beginning on or after 1st September 2011.

Regulation 4(a) and (b) removes the definition of “person with leave to enter or remain” in the 2010 Regulations and inserts a new definition referring to a “person granted humanitarian protection”. The new definition creates a narrower class of eligible person, by including only people who have been granted humanitarian protection, their spouses and children. The previous category also included certain people granted discretionary leave to remain and their spouses and children.

The effect of the changes to the definition of person with leave to enter or remain and the related amendments is that people (and their family members) who would have fallen within the category of “person with leave to enter or remain” but who do not fall within the new category of people granted humanitarian protection will not be eligible for support.

Regulation 4(c) provides that the “relevant date” is 1st February 2011.

Regulations 5 and 6(b) amend the deadline for applications and the deadline for receipt of financial information, in relation to the academic year beginning on or after 1st September 2011.

Regulation 7(a) amends the definition of “family member” in Schedule 1 to the 2010 Regulations. This amendment replaces the reference to “child” with one that refers to direct descendants of the person or of the person’s spouse or civil partner who are under the age of 21 or dependants of the person or the person’s spouse or civil partner.

Regulation 7(b) makes changes to the definition of “parent” in Schedule 1 to the 2010 Regulations to remove the reference to “any person having care of a child”.

An impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the public sector. The impact on the public sector is minimal.

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