SCOTTISH STATUTORY INSTRUMENTS

2009 No. 309

EDUCATION

The Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2009

Made - - - -	*7th September 2009*
Laid before the Scottish Parliament	*8th September 2009*
Coming into force - -	*30th September 2009*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 49(3), 73(f) and 74(1) of the Education (Scotland) Act 1980(**a**), sections 1 and 2 of the Education (Fees and Awards) Act 1983(**b**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2009 and come into force on 30th September 2009.

Amendment of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006

2. After paragraph 6 of Schedule 1 (eligible students) to the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006(**c**) insert—

"**6A.** A person who—

(a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;

(ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and

(iii) is ordinarily resident in Scotland on the first day of the first academic year of the course; or

(**a**) 1980 c.44. Section 73(f) was amended by the Teaching and Higher Education Act 1998 (c.30) ("the 1998 Act"), section 29(1) and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2). Section 74(1) was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), section 82(1) and Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) ("the Scotland Act").

(**b**) 1983 c.40. Section 1 was relevantly amended by the Education Reform Act 1988 (c.40), section 237(1) and Schedule 12, paragraph 91; by the Further and Higher Education Act 1992 (c.13), section 93(1) and Schedule 8, paragraph 19; and by the Further and Higher Education (Scotland) Act 1992 (c.37), section 62(2) and Schedule 9, paragraph 8. Section 2(3)(a) and the word "other" in section 2(3)(b) were repealed by the 1998 Act, section 44(2) and Schedule 4. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act.

(**c**) S.S.I. 2006/333, amended by S.S.I. 2007/158 and 503 and 2009/188.

(b) is the spouse, civil partner, child or stepchild of a person of the kind described in sub-paragraph (a) and who is ordinarily resident in Scotland on the first day of the first academic year of the course.".

Amendment of the Education Authority Bursaries (Scotland) Regulations 2007

3. The Education Authority Bursaries (Scotland) Regulations 2007(**a**) are amended in accordance with regulations 4 and 5.

4. After paragraph 6 of Schedule 1 (persons eligible for bursaries) insert—

"**6A.** A person who—

(a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;

(ii) has been ordinarily resident in the British Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and

(iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or

(b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who meets a residence requirement specified in sub-paragraph (a)(iii).".

5. In paragraph 2(1) and (3) of Schedule 2 (ordinary residence) for "9(b)" substitute "9(1)(b)".

Amendment of the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007

6. The Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(**b**) are amended in accordance with regulations 7 and 8.

7. After paragraph 6 of Schedule 1 (persons eligible for allowances) insert—

"**6A.** A person who—

(a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;

(ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and

(iii) is ordinarily resident in the United Kingdom on the relevant date; or

(b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who is ordinarily resident in the United Kingdom on the relevant date.".

8. In paragraph 2(1) and (3) of Schedule 2 (ordinary residence) for "9(b)" substitute "9(1)(b)".

Amendment of the Education (Fees and Awards) (Scotland) Regulations 2007

9. The Education (Fees and Awards) (Scotland) Regulations 2007(**c**) are amended in accordance with regulations 10 to 13.

(**a**) S.S.I. 2007/149, amended by S.S.I. 2007/503 and 2009/188.
(**b**) S.S.I. 2007/151, amended by S.S.I. 2007/503, 2008/206 and 2009/188.
(**c**) S.S.I. 2007/152, amended by S.S.I. 2007/503 and 2009/188.

10. After regulation 2(3) (interpretation) insert—

"(4) For the purposes of regulation 5(d) a person who is ordinarily resident in the United Kingdom as a result of having moved from the Islands for the purpose of undertaking a course is to be considered to be ordinarily resident in the Islands.".

11. In regulation 5 (relevant connection with the United Kingdom and Islands)—

(a) omit "and" where it occurs at the end of paragraph (b); and

(b) after paragraph (c) insert—

"and

(d) at the date referred to in paragraph (a) that student is ordinarily resident in the United Kingdom.".

12. After paragraph 6 of Schedule 1 (fees – excepted students) insert—

"**6A.** A person shall be an excepted student if that person—

(a) is an Iraqi national who has been—

(i) granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department; and

(ii) ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; or

(b) is the spouse, civil partner, or child of a person of the kind described in sub-paragraph (a).".

13. In Schedule 2 (post-graduate agricultural studentships – excepted candidates)—

(a) after paragraph 6 insert—

"**6A.** Subject to paragraph 11, a person shall be an excepted student if that person—

(a) is an Iraqi national who has been—

(i) granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department; and

(ii) ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; or

(b) is the spouse, civil partner, or child of a person of the kind described in sub-paragraph (a)."; and

(b) in paragraph 11 after "paragraphs 5, 6," insert "6A,".

Amendment of the Students' Allowances (Scotland) Regulations 2007

14. The Students' Allowances (Scotland) Regulations 2007(**a**) are amended in accordance with regulations 15 and 16.

15. After paragraph 6 of Schedule 1 (persons eligible for allowances) insert—

"**6A.** A person who—

(a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;

(**a**) S.S.I. 2007/153, amended by S.S.I. 2007/503, 2008/206 and 2009/188.

(ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and

(iii) is ordinarily resident in Scotland on the relevant date; or

(b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who is ordinarily resident in Scotland on the relevant date.".

16. In paragraph 2(1) and (3) of Schedule 2 (ordinary residence) for "9(b)" substitute "9(1)(b)".

Amendment of the Education (Student Loans) (Scotland) Regulations 2007

17. After paragraph 6 of Schedule 1 (eligible students) to the Education (Student Loans) (Scotland) Regulations 2007(**a**) insert—

"**6A.** A person who—

(a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;

(ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and

(iii) is ordinarily resident in Scotland on the first day of the first academic year of the course; or

(b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who is ordinarily resident in Scotland on the first day of the first academic year of the course.".

Amendment of the Education Maintenance Allowances (Scotland) Regulations 2007

18. After paragraph 6 of Schedule 1 (persons eligible for education maintenance allowances) to the Education Maintenance Allowances (Scotland) Regulations 2007(**b**) insert—

"**6A.** A person who—

(a) (i) is an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department;

(ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such indefinite leave to enter the United Kingdom; and

(iii) is ordinarily resident in Scotland on the qualifying date; or

(b) is the spouse, civil partner or child of a person of the kind described in sub-paragraph (a) and who is ordinarily resident in Scotland on the qualifying date.".

FIONA HYSLOP
A member of the Scottish Executive

St Andrew's House,
Edinburgh
7th September 2009

(**a**) S.S.I. 2007/154, amended by S.S.I. 2007/503, 2008/205 and 206 and 2009/188.
(**b**) S.S.I. 2007/156, amended by S.S.I 2007/503 and 2009/188 and S.I. 2008/1879.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006 ("the SLTF Regulations"), the Education Authority Bursaries (Scotland) Regulations 2007 ("the Bursaries Regulations"), the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 ("the Nursing Regulations"), the Education (Fees and Awards) (Scotland) Regulations 2007 ("the Fees Regulations"), the Students' Allowances (Scotland) Regulations 2007 ("the Allowances Regulations"), the Education (Student Loans) (Scotland) Regulations 2007 ("the Loans Regulations") and the Education Maintenance Allowances (Scotland) Regulations 2007 ("the EMA Regulations").

Through the amendments made by regulations 2, 4, 7, 12, 13, 15, 17 and 18 an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) operated by the Home Department (and such a person's spouse, civil partner and child (and stepchild in the case of the SLTF Regulations)) who meets the relevant residence requirements shall be—

(a) an excepted student under the Fees Regulations and entitled to be charged home rate fees for a course to which the Fees Regulations apply;

(b) eligible for a loan under the SLTF Regulations and the Loans Regulations;

(c) eligible for an allowance under the Nursing Regulations and the Allowances Regulations;

(d) eligible for a bursary under the Bursaries Regulations; and

(e) eligible for an education maintenance allowance under the EMA Regulations.

Regulations 10 and 11 amend the Fees Regulations to make it clear that students who move from the Islands to the United Kingdom for the purposes of undertaking a course will be regarded as being ordinarily resident in the Islands.

Regulations 5, 8 and 16 amend the Bursaries Regulations, the Nursing Regulations and the Allowances Regulations so as to correct erroneous references.

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