SCOTTISH STATUTORY INSTRUMENTS

2005 No. 545

EDUCATION

The Education (Graduate Endowment, Student Fees and Support) (Scotland) Amendment (No. 2) Regulations 2005

Made - - - -	*2nd November 2005*
Laid before the Scottish Parliament	*4th November 2005*
Coming into force - -	*26th November 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 49(3), 73(f), 73B and 74(l) of the Education (Scotland) Act 1980(**a**), sections 1 and 2 of the Education (Fees and Awards) Act 1983(**b**), and section 1 of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001(**c**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education (Graduate Endowment, Student Fees and Support) (Scotland) Amendment (No. 2) Regulations 2005 and shall come into force on 26th November 2005.

Amendment of Nursing and Midwifery Regulations

2.—(1) The Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(**d**) shall be amended as follows.

(2) In regulation 2 (interpretation) omit–

(a) the definition of "relevant day" where it appears for the second time; and

(b) the definition of "national of a member state of the European Community".

(3) In Schedule 1 (persons eligible for allowances)–

(a) in paragraph 9(a)–

(i) between "national" and "of a member" insert "for the purposes of the Community Treaties";

(**a**) 1980 c.44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c.30), section 29(1) and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6), section 3(2); section 73B was inserted by the Teaching and Higher Education Act 1998 (c.30), section 29(2) and amended by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001, section 3(3) and by the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, paragraph 149; section 74(1) was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), 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).

(**b**) 1983 c.40; section 1 was relevantly amended by the Education Reform Act 1988 (c.40), Schedule 12, paragraph 91 and the Further and Higher Education (Scotland) Act 1992 (c.37), schedule 9, paragraph 8; section 2(3)(a) and the word "other" in paragraph (b) were repealed by the Teaching and Higher Education Act 1998 (c.30), 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 1998 (c.46).

(**c**) 2001 asp 6.

(**d**) S.I. 1992/580, amended by S.S.I. 2002/423, 2003/401, 2004/469, 2005/217 and 341.

(ii) for "other than the United Kingdom" substitute "as constituted from time to time (excluding the United Kingdom)";

(iii) after "national;" omit "and";

(b) in paragraph 9(b) omit "day." and substitute "day; and"; and

(c) after paragraph 9(b) insert–

"(c) seeks an allowance in respect of a course of education at an establishment in Scotland.".

Amendment of Bursaries Regulations

3.—(1) The Education Authority Bursaries (Scotland) Regulations 1995(**a**) shall be amended as follows.

(2) In Schedule 2 (ordinary residence)–

(a) in paragraph 1–

(i) after "paragraph 1(a)" insert "and paragraph 6(b)";

(ii) before "a person shall" where it appears in sub-paragraph (b) insert "for the purposes of paragraph 1(a) of Schedule 1 only"; and

(b) in paragraph 2 for "and" where it appears at the end of sub-paragraph (3)(a)(ii) substitute "or".

Amendment of Fees and Awards Regulations

4.—(1) The Education (Fees and Awards) (Scotland) Regulations 1997(**b**) shall be amended as follows.

(2) In Schedule 1 (fees – excepted students) in paragraph 2B for "who-" substitute "shall be an excepted student if he–".

(3) In Schedule 2 (post-graduate agricultural studentships and Newbattle Abbey College maintenance awards – excepted candidates) in paragraph 2B for "who-" substitute "shall be an excepted candidate if he–".

Amendment of Students' Allowances Regulations

5.—(1) The Students' Allowances (Scotland) Regulations 1999(**c**) shall be amended as follows.

(2) In Schedule 2 (ordinary residence)–

(a) in paragraph 1–

(i) after "paragraph 1(a)" insert "and paragraph 6B(b)";

(ii) before "a person shall" where it appears in sub-paragraph (b) insert "for the purposes of paragraph 1(a) of Schedule 1 only"; and

(b) in paragraph 2(1)–

(i) omit "(b) and" where it appears after "paragraph 6B"; and

(ii) omit "Scotland,".

Amendment of Graduate Endowment Regulations

6.—(1) The Graduate Endowment (Scotland) Regulations 2001(**d**) shall be amended as follows.

(2) In Schedule 2 (ordinary residence)–

(a) in paragraph 1–

(**a**) S.I. 1995/1739, amended by S.I. 1997/1049, S.S.I. 2004/469, 2005/217 and 341.
(**b**) S.I. 1997/93, amended by S.1. 1997/2008 and 1998/2324, S.S.I. 2004/469, 2005/217 and 341.
(**c**) S.I. 1999/1131, amended by S.S.I. 2001/229, 2004/469, 2005/217 and 341.
(**d**) S.S.I. 2001/280, amended by S.S.I. 2004/469, 2005/217 and 341.

(i) after “paragraph 2(a)” insert “and paragraph 6A(b)”;

(ii) before “a person shall” where it appears in sub-paragraph (b) insert “for the purposes of paragraph 2(a) of Schedule 1 only”; and

(b) in paragraph 2(1)–

(i) omit “(b) and” where it appears after “paragraph 6A” ; and

(ii) omit “Scotland,”.

Amendment of Education Maintenance Allowances Regulations

7.—(1) The Education Maintenance Allowances (Scotland) Regulations 2004(**a**)shall be amended as follows.

(2) In Schedule 1 (persons eligible for Education Maintenance Allowances) in sub-paragraph 7A(b) omit “Scotland” and substitute “the United Kingdom and Islands”.

(3) In Schedule 2 (ordinary residence)–

(a) in paragraph 1–

(i) after “paragraph 1(a)” insert “and paragraph 7A(b)”; and

(ii) before “a person shall” where it appears in sub-paragraph (b) insert “for the purposes of paragraph 1(a) of Schedule 1 only”;

(b) in paragraph 2(1)–

(i) omit “(b) and” where it appears after “paragraph 7A”;

(ii) omit “Scotland,”; and

(c) in paragraph 2(3) for “and” where it appears at the end of sub-paragraph 3(a)(ii) substitute “or”.

NICOL STEPHEN
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
2nd November 2005

(**a**) S.S.I. 2004/273, amended by S.S.I. 2004/301 and 469, 2005/217 and 341.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 26th November 2005, further amend the regulations referred to below, as amended by the Education (Graduate Endowment, Student Fees and Support) (Scotland) Amendment Regulations 2005 (S.S.I. 2005/341) ("the 2005 Regulations"). The 2005 Regulations created a new category of student eligible for support and liable for the graduate endowment. The new category is subject to requirements for ordinary residence on a qualifying date and for three years preceding that date, except in the case of the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992 ("the 1992 Regulations") in which only the latter requirement applies.

Regulation 2 amends the 1992 Regulations by omitting from regulation 2 the definitions of "relevant day" and "national of a member state of the European Community". It also amends paragraph 9 of Schedule 1 to clarify the definition of the new category of student.

Regulations 3, 5, 6 and 7 amend each of the Education Authority Bursaries (Scotland) Regulations 1995 ("the 1995 Regulations"), the Students' Allowances (Scotland) Regulations 1999, the Graduate Endowment (Scotland) Regulations 2001 and the Education Maintenance Allowances (Scotland) Regulations 2004 ("the 2004 Regulations") to clarify that paragraph 1(a) of Schedule 2, which makes provision for temporary absence from the United Kingdom, applies to the requirement for residence on the qualifying date and that paragraph 2 applies only to the requirement for three years' residence.

Regulations 3 and 7 also amend the 1995 and 2004 Regulations to clarify that the conditions for ordinary residence provided for in each case in sub-paragraphs 2(3)(a) and (b) are alternative rather than cumulative.

Regulation 4 rectifies an error in the Education (Fees and Awards) (Scotland) Regulations 1997, as amended by the 2005 Regulations, to clarify that the new category of student constitutes an exception for the purposes of Schedules 1 and 2.

Regulation 7 amends the 2004 Regulations to substitute in relation to the new category of student a requirement for ordinary residence in the United Kingdom and Islands in place of a requirement for such residence in Scotland.

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