SCOTTISH STATUTORY INSTRUMENTS

2005 No. 341

EDUCATION

The Education (Graduate Endowment, Student Fees and Support) (Scotland) Amendment Regulations 2005

Made - - - -	*8th June 2005*
Laid before the Scottish Parliament	*10th June 2005*
Coming into force - -	*2nd July 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 Regulations 2005 and shall come into force on 2nd July 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)–

(a) after the definition of "allowance" insert–

""child of such a national" includes in relation to that national a step-child, a child in his or her guardianship, a child for whom he or she has parental responsibility and a child in his or her care;"

(b) at the end of the definition of "Health Board" omit "and"; and

(c) after that definition insert–

""Islands" means the Channel Islands and the Isle of Man;

(**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(2) 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 and 2005/217.

"national of a member state of the European Community" means a person who is a national for the purposes of the Community Treaties of any member state of the European Community (including the United Kingdom) as constituted from time to time; and

"relevant day" in relation to a course of education for which an allowance is sought means–

(a) as respects a course starting in the period 1st August to 31st December, 1st August; or

(b) as respects a course starting in the period 1st January to 31st July, 1st January,

in either case the relevant day being in the year of commencement of the appropriate academic year of the course; and".

(3) In Schedule 1 (persons eligible for allowances) after paragraph 8 insert–

"**9.** A person who–

(a) is a national of a member state of the European Community other than the United Kingdom or the child of such a national; and

(b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the relevant day.".

(4) In Schedule 2 (ordinary residence) in paragraph 2(1) after "Schedule 1," insert–

"and sub-paragraph (3) below, under exception of the words from "and no part of that period of residence" to "full-time education" where they appear in sub-paragraph (3)(a), shall apply in determining, for the purposes of paragraph 9(b) of Schedule 1,".

Amendment of Bursaries Regulations

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

(2) In Schedule 1 (persons eligible for bursaries) after paragraph 5 insert–

"**6.** A person who–

(a) is a national of a member state of the European Community other than the United Kingdom or the child of such a national;

(b) is ordinarily resident in the area of the education authority on the qualifying day in relation to the course of study in respect of which he seeks a bursary; and

(c) has been ordinarily resident in the British Islands throughout the three year period preceding the relevant date.".

(3) In Schedule 2 (ordinary residence) in paragraph 2(1)–

(a) after "Schedule 1," insert–

"and sub-paragraph (3) below, under exception of the words from "provided that the education authority" to "full-time education" where they appear in sub-paragraph (3)(a)(ii), shall apply in determining, for the purposes of paragraph 6(c) of Schedule 1,"; and

(b) after "period") in" insert "Scotland,".

Amendment of Fees and Awards Regulations

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

(2) In Schedule 1 (fees – excepted students) after paragraph 2 insert–

(**a**) S.I. 1995/1739, amended by S.I. 1997/1049, S.S.I. 2004/469 and 2005/217.
(**b**) S.I. 1997/93, amended by S.1. 1997/2008 and 1998/2324 , S.S.I. 2004/469 and 2005/217.

"**2B.** A person who–

(a) is a national of a member State of the European Community other than the United Kingdom or the child of such a national;

(b) is ordinarily resident in Scotland on the date referred to in regulation 6(a); and

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding that date.".

(3) In Schedule 2 (Post–graduate agricultural studentships and Newbattle Abbey College maintenance awards – excepted candidates) after paragraph 2 insert–

"**2B.** A person who–

(a) is a national of a member State of the European Community other than the United Kingdom or the child of such a national;

(b) is ordinarily resident in Scotland on the relevant date; and

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding that date.".

Amendment of Students' Allowances Regulations

5.—(1) The Students' Allowances (Scotland) Regulations 1999(**a**) are amended as follows.

(2) In regulation 2 (interpretation) after the definition of "European Economic Area" insert–

""Islands" means the Channel Islands and the Isle of Man;".

(3) In Schedule 1 (persons eligible for allowances) after paragraph 6 insert–

"**6B.** A person who–

(a) is a national of a member State of the European Community other than the United Kingdom or the child of such a national;

(b) is ordinarily resident in Scotland on the relevant day; and

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding that day.".

(4) In Schedule 2 (ordinary residence) in paragraph 2(1)–

(a) after "Schedule 1," insert–

"and sub-paragraph (3) below, under exception of the words from "and no part of that period of residence" to "full-time education" where they appear in sub-paragraph (3)(a)(ii), shall apply in determining, for the purposes of paragraph 6B(b) and (c) of Schedule 1,"; and

(b) after "period in" insert "Scotland,".

Amendment of Student Loans Regulations

6.—(1) The Education (Student Loans) (Scotland) Regulations 2000(**b**) are amended as follows.

(2) In regulation 2 (interpretation) after the definition of "borrower" insert–

""child of such a national" includes in relation to that national a step-child, a child in his or her guardianship, a child for whom he or she has parental responsibility and a child in his or her care;".

(**a**) S.I. 1999/1131, amended by S.S.I. 2001/229, 2004/469 and 2005/217.
(**b**) S.S.I. 2000/200, amended by S.S.I. 2001/228 and 311, 2004/469 and 2005/217.

(3) In Schedule 1 (eligible students) after paragraph 6 insert–

"**6A.** A person who–

(a) is a national of a member State of the European Community other than the United Kingdom or the child of such a national;

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

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding that date.".

Amendment of Graduate Endowment Regulations

7.—(1) The Graduate Endowment (Scotland) Regulations 2001(**a**) are amended as follows.

(2) In Schedule 1(liable graduates) after paragraph 6 insert–

"**6A.** A person who–

(a) is a national of a member State of the European Community other than the United Kingdom or the child of such a national;

(b) is ordinarily resident in Scotland on the relevant day; and

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding that day.".

(3) In Schedule 2 (ordinary residence) in paragraph 2(1)–

(a) after "Schedule 1" insert–

"and sub-paragraph (3) below, under exception of the words from "and no part of that period of residence" to "full-time education" where they appear in sub-paragraph (3)(a)(ii), shall apply in determining, for the purposes of paragraph 6A(b) and (c) of Schedule 1,"; and

(b) after "period in" insert "Scotland,".

Amendment of Education Maintenance Allowances Regulations

8.—(1) The Education Maintenance Allowances (Scotland) Regulations 2004(**b**) are amended as follows.

(2) In regulation 2 (interpretation) after the definition of "Islands" insert–

""national of a member state of the European Community" means a person who is a national for the purposes of the Community Treaties of any member state of the European Community (including the United Kingdom) as constituted from time to time;".

(3) In Schedule 1 (persons eligible for Education Maintenance Allowances) after paragraph 7 insert–

"**7A.** A person who–

(a) is a national of a member State of the European Community other than the United Kingdom or the child of such a person;

(b) is ordinarily resident in Scotland on the qualifying date; and

(c) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding that date.".

(**a**) S.S.I. 2001/280 amended by S.S.I. 2004/469.
(**b**) S.S.I 2004/273, amended by S.S.I. 2004/301 and 469, and 2005/217.

(4) In Schedule 2 (ordinary residence) in paragraph 2(1)–

(a) after "Schedule 1" insert–

"and sub-paragraph (3) below, under exception of the words from "provided that the Scottish Ministers" to "full-time education" where they appear in sub-paragraph (3)(a)(ii), shall apply in determining, for the purposes of paragraph 7A(b) and (c) of Schedule 1,"; and

(b) after "period") in" insert "Scotland,".

JAMES R WALLACE
A member of the Scottish Executive

St Andrew's House,
Edinburgh
8th June 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 2nd July 2005, amend the regulations listed in the table below by creating a new category of student eligible for support and liable for the graduate endowment. That category comprises nationals of a member State of the European Community other than the United Kingdom and the children of such nationals who are ordinarily resident in Scotland and who have been ordinarily resident in the United Kingdom and Islands for three years. In relation to the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992 ordinary residence in Scotland is not a requirement. They also amend the regulations so listed in so far as they presently provide as a qualification for ordinary residence for a requirement that residence should not be wholly or mainly for the purpose of receiving full time education to the effect that such requirement shall not apply to the newly created category of student.

Amended Regulations	*Provisions which are amended*	*Relevant regulation of these Regulations*
The Nursing and Midwifery Student Allowances (Scotland) Regulations 1992	Schedule 1 (addition of new paragraph 9); Schedule 2, paragraph 2(1).	Regulation 2
The Education Authority Bursaries (Scotland) Regulations 1995	Schedule 1 (addition of new paragraph 6); Schedule 2, paragraph 2(1).	Regulation 3
The Education (Fees and Awards) (Scotland) Regulations 1997	Schedule 1 (addition of new paragraph 2B); Schedule 2, (addition of new paragraph 2B).	Regulation 4
The Students' Allowances (Scotland) Regulations 1999	Schedule 1 (addition of new paragraph 6B); Schedule 2, paragraph 2(1).	Regulation 5
The Education (Student Loans) (Scotland) Regulations 2000	Schedule 1 (addition of new paragraph 6A).	Regulation 6
The Graduate Endowment (Scotland) Regulations 2001	Schedule 1 (addition of new paragraph 6A); Schedule 2, paragraph 2(1).	Regulation 7
The Education Maintenance Allowances (Scotland) Regulations 2004	Schedule 1 (addition of new paragraph 7A); Schedule 2(1).	Regulation 8

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£3.00

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under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
300 06/05 19593

ISBN 0-11-069643-3

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