STATUTORY INSTRUMENTS

1983 No. 1536 (S.144)

EDUCATION, SCOTLAND

The Students' Allowances (Scotland) Amendment (No. 2) Regulations 1983

Made - - - -	18*th October* 1983
Laid before Parliament	31*st October* 1983
Coming into Operation	21*st November* 1983

In exercise of the powers conferred on me by section 73*(f)* and 74(1) of the Education (Scotland) Act 1980(**a**) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Students' Allowances (Scotland) Amendment (No. 2) Regulations 1983 and shall come into operation on 21st November 1983.

Interpretation

2. In these regulations, the "principal regulations" means the Students' Allowances (Scotland) Regulations 1971(**b**).

Amendment of principal regulations

3. The Schedule to the principal regulations shall be amended as follows:—

(a) after paragraph 1(1) there shall be inserted the following paragraph:—

"(1A) Any reference to a person's child includes a reference to a person adopted in pursuance of adoption proceedings, a stepchild and an illegitimate child of whom the person concerned is the mother or in whose case he has admitted paternity or has been adjudged the putative father.";

(b) for paragraph 1(4) there shall be substituted the following provision:—

"(4) A person may be treated for the purposes of paragraph 2*(b)* as ordinarily resident in the British Islands or in the European Community for a period if the Secretary of State is satisfied that he was born and has spent the greater part of his life in the British Islands or, as the case may be, the European Community; and either—

(a) his parents or either of them have been ordinarily resident in the British Islands or the European Community for that period and he himself is not an independent student; or

(**a**) 1980 c.44.
(**b**) S.I. 1971/124; relevant amending instrument is S.I. 1983/798.

(b) he has been ordinarily resident for at least one year of that period in the British Islands or the European Community."

(c) for paragraph 2, there shall be substituted the following provisions:—

"2. The further requirements for eligibility for an allowance payable in accordance with these regulations are —

(a) in the case of a person who is a refugee, that he shall have been ordinarily resident in the British Islands and that he shall not have ceased to be so ordinarily resident since he was recognised as a refugee or was accorded asylum;

(b) in the case of the spouse or child of a refugee, that he shall be the spouse or as the case may be the child of a refugee who complies with the requirement prescribed in sub-paragraph *(a)*; and

(c) in the case of —

(i) a person referred to in paragraph 3 below, that he shall have been ordinarily resident throughout the period of 3 years preceding the relevant date in the European Community; and

(ii) any other person, that he shall have been ordinarily resident throughout the period of 3 years preceding the relevant date in the British Islands, except that where he is a national of a member state of the European Community he shall have been ordinarily resident throughout that period in the European Community and shall comply with the requirements specified in paragraph 2A for the purposes of this provision;

and as respects both cases (i) and (ii) above that the period of residence shall not as respects any part thereof have been wholly or mainly for the purposes of receiving full-time education.

2A. The requirements specified for the purposes of paragraph 2*(c)*(ii) in relation to a person who is a national of a member state of the European Community are that —

(a) he is resident in Scotland on the relevant date;

(b) he entered the United Kingdom wholly or mainly for the purpose of taking up or of seeking employment;

(c) during the year preceding the relevant date he has been in employment in Scotland for an aggregate period of not less than 9 months; and

(d) he seeks an allowance in respect of a course provided by a vocational training establishment being a course leading to a qualification which is needed for or is designed to fit a person for engagement to a specific profession or trade;

and for the purposes of this paragraph "qualification" includes authorisation, recognition, registration, enrolment, approval and certification; and "vocational training establishment" means a further education establishment being a vocational school within the meaning of Article 7 of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community (**a**)."; and

(**a**) OJ No. L 257, 19.10.68, p. 2. (OJ/SE 1968 (II), p. 475).

(d) in paragraph 3*(b)*(iii) at the end there shall be added the following words:—

"for an aggregate period of not less than a year."

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
18th October 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Students' Allowances (Scotland) Regulations 1971 in certain minor respects.

The general arrangements made by the Secretary of State for the purposes of his functions under the Regulations of 1971 have provided that a person should not be eligible for an allowance, who is not ordinarily resident in Scotland on a certain date (related to the date of commencement of a course of study) and, throughout the three years preceding commencement of his proposed course of study, has not been ordinarily resident in the British Islands; these arrangements are relaxed or modified in the case of applicants for allowances who are refugees or the children of workers from the European Community.

The present regulations make express provision in that behalf and further provide that a person should not be eligible for an allowance if his residence in the British Islands (or the European Community, as appropriate) has during any part of that three year period been wholly or mainly for purposes of receiving full-time education.

They also extend the existing arrangements relating to the eligibility of refugees for awards to their spouses and children and take account of the provisions of Article 7 of EEC Regulation 1612/68 relating to the access of workers from the European Community to training in vocational schools.

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