STATUTORY INSTRUMENTS

1983 No. 798 (S.68)

EDUCATION, SCOTLAND

The Students' Allowances (Scotland) Amendment Regulations 1983

Made - - - -	*24th May* 1983
Coming into Operation	*25th May* 1983
To be laid before Parliament	

In exercise of the powers conferred on me by sections 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 Regulations 1983 and shall come into operation on 25th May 1983.

Interpretation

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

Amendment of the principal regulations

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

(a) in regulation 2, at the end thereof, there shall be added the following words:—

"and "qualifying day" in relation to a course of study means—

(a) as respects a course of study starting in the autumn term of any year, 30th June of that year;

(b) as respects such a course starting in the spring term of any year, 31st October of the year preceding that year; and

(c) as respects such a course starting in the summer term of any year, the last day of February of that year.".

(b) after regulation 3 there shall be inserted the following regulation:—

"3A.—(1) Subject to the provisions thereof, these regulations shall apply for the purposes of the Secretary of State, by virtue of section 73*(f)* of the Education (Scotland) Act 1980 and in accordance with these regulations, applying sums for the payment of allowances to or in respect of any person attending a course of study who is ordinarily resident in Scotland on the qualifying day in relation thereto unless that person is a person who does not fulfil the further requirements of eligibility specified in the Schedule to these regulations, relating to him.

(**a**) 1980 c.44.
(**b**) S.I. 1971/124, to which there are amendments not relevant to these regulations.

(2) A person shall not be regarded as ordinarily resident in Scotland on the qualifying day in relation to any course of study if the Secretary of State is satisfied that—

(a) he is or shall have been so resident; but

(b) his residence there on that day is or was in any sense attributable to or connected with any period of residence had by him within 3 years immediately preceding that day as respects any part of which the Secretary of State is of the opinion that its purpose was wholly or mainly that of receiving full-time education.".

4. The Schedule set out in the Schedule to these regulations shall form the Schedule to the principal regulations.

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

New St Andrew's House,
Edinburgh.
24th May 1983.

SCHEDULE

Regulation 4

(to be inserted as Schedule to the principal regulations)

REQUIREMENTS OF ELIGIBILITY FOR ALLOWANCES

1.—(1) In this Schedule—

"British Islands" means the United Kingdom, the Channel Islands and the Isle of Man;

"employment" includes the holding of any office and any occupation for gain and "employed" shall be construed accordingly;

"European Community" means the area comprised by the member states of the European Community (including the United Kingdom) as constituted from time to time;

"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 Economic Community (including the United Kingdom) as constituted from time to time;

"refugee" means a person who is recognised by Her Majesty's Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by the Protocol thereto which entered into force on 4th October 1967 or a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty's Government though not so recognised.

(2) Any reference to a relevant date in relation to a person attending or proposing to attend a course of study is—

(a) as respects such a course starting in the autumn term of any year, a reference to the earlier of 31st August in that year or the first day of that term;

(b) as respects such a course starting in the spring term of any year, a reference to the earlier of 31st December in the year preceding that year or the first day of that term; and

(c) as respects such a course starting in the summer term of any year, a reference to the earlier of 31st March in that year or the first day of that term.

(3) 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 has not been so resident for that period only because he, his spouse or his parent was for the time being employed outside the British Islands or as the case may be, outside the European Community.

(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—

(a) 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

(b) his parents or either of them have been ordinarily resident in the British Islands or the European Community for that period; and

(c) the applicant is not an independent student.

(5) In paragraph (4) above, an "independent student" means a student who either:—

(a) has attained the age of 25 years before the relevant date relative to the course of study to which the allowance applied for relates; or

(b) has supported himself out of his earnings for periods preceding the relevant date aggregating not less than three years.

(6) For the purposes of paragraph (5) above a student shall be treated as having supported himself out of his earnings for any period or periods, not exceeding twelve months in the aggregate, for which—

(a) the student was in receipt of training in pursuance of the Manpower Services Commission's Training Opportunities Programme or Youth Opportunities Programme; or

(b) the student was in receipt of unemployment benefit under section 14(1)*(a)* of the Social Security Act 1975(**a**); or

(c) before 24th November 1980 (when Schedule 2 to the Social Security Act 1980(**b**) came into force), the student was registered for employment; or

(d) on and after that date but before 18th October 1982, the student was registered and available for employment; or

(e) on and after 18th October 1982, the student was available for employment and, if under the age of 18 years, registered for employment.

(7) For the purposes aforesaid a student shall also be treated as having supported himself out of his earnings for any period—

(a) for which the student held a Scottish Studentship or comparable award;

(b) for which the student received sickness benefit, invalidity pension or maternity allowance under section 14(1)*(b)*, 15(1)*(b)*, 22(1) or 36(1) of the Social Security Act 1975; or

(c) for which the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was dependent upon him.

(8) In paragraph (6) above any reference to a person registered or available for employment is a reference to his being so registered or available for the purposes of section 5 of the Supplementary Benefits Act 1976(**c**).

(9) In paragraph (6) and (7) above any reference to an enactment contained in the Supplementary Benefits Act 1976 or the Social Security Act 1975 is a reference to that enactment as from time to time in force and includes, in relation to a period before the coming into force of the enactment in question, a reference to the corresponding enactment then in force.

(a) 1975 c.14. (b) 1980 c.30. (c) 1976 c.71.

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 not have been ordinarily resident outside the British Islands since he was recognised as a refugee or was accorded asylum; and

(b) in the case of—

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

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.

3. The person referred to in paragraph 2*(b)* (i) is a person who—

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

(b) is the child of a national of a member state of the European Community who—

(i) where he is employed on that date, is then in employment in Scotland; or

(ii) where he is not employed on that date (by reason of retirement or otherwise), was last employed in such employment; or

(iii) whether or not he is employed on that date, has, during the three year period preceding that date been in such employment.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the provisions of the Students' Allowances (Scotland) Regulations 1971 relating to the conditions of eligibility for grant of allowances.

The regulations (in accordance with general administrative arrangements made by the Secretary of State for the purposes of his functions under the regulations of 1971 as amended in 1974) provide that an allowance shall not normally be granted to a person who has not been ordinarily resident in the British Islands (or, in certain cases, the European Community) throughout the period of three years preceding the beginning of the course for which the grant is intended.

The regulations further provide that an allowance shall not be granted to a person if his residence in the British Islands has during any part of the relevant three-year period been wholly or mainly for purposes of receiving full-time education; or if his residence in Scotland on a qualifying day is attributable to residence of that kind.

The regulations come into operation on 25th May 1983.

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