

2001 No. 229

EDUCATION

**The Students' Allowances (Scotland) Amendment
Regulations 2001**

Made 11th June 2001

Laid before the Scottish Parliament 11th June 2001

Coming into force 1st August 2001

The Scottish Ministers, in exercise of the powers conferred by sections 73(f) and 74(1) of the Education (Scotland) Act 1980(a) 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 Students' Allowances (Scotland) Amendment Regulations 2001 and shall come into force on 1st August 2001.

Amendment of the Students' Allowances (Scotland) Regulations 1999

2. The Students' Allowances (Scotland) Regulations 1999(b) are amended as follows.
3. In regulations 3(1) and 4(1)(b), for "attending", there is substituted "undertaking".
4. In regulation 5(1)(a), for "in writing", there is substituted "in such form as the Scottish Ministers may require".
5. In regulation 5(3)(a), for "attend regularly", there is substituted "comply with the requirements of".
6. In paragraph 3(1) of Schedule 2—
 - (a) "has" is omitted;
 - (b) at the beginning of paragraphs (a), (c) and (d), "has" is inserted; and
 - (c) in paragraph (b), for "been" there is substituted "is" and "for at least two years" is omitted.
7. For paragraph 3(2) of Schedule 2, there is substituted—

"(2) A person shall be regarded as having supported themselves out of their earnings for any period during which they—

 - (a) were participating in arrangements for training for the unemployed under any scheme operated, sponsored or funded by any state authority or agency, national, regional or local;

(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 74 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) S.I. 1999/1131.

- (b) were in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;
- (c) were available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) or (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit;
- (d) received any pension, allowance or other benefit paid by reason of a disability to which they are subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer or by any other person;
- (e) held a Scottish Studentship or comparable award; or
- (f) could not reasonably be expected to support themselves out of their earnings because they had the care of a person under the age of 18 years who was wholly or mainly financially dependent upon them.”.

ALASDAIR MORRISON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
11th June 2001

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations, which come into force on 1st August 2001, amend the Students' Allowances (Scotland) Regulations 1999 ("the principal Regulations"). The principal Regulations govern allowances paid to students under the Education (Scotland) Act 1980.

The principal Regulations are amended to allow the Scottish Ministers to pay allowances to students on distance learning courses as well as students attending courses of education (regulation 3). In consequence, the requirement placed on the recipient of an allowance to "attend regularly" the course of education is replaced with an obligation to comply with the requirements of the course (regulation 5).

Regulation 4 removes the requirement for an application for an allowance to be made in writing and replaces it with a requirement for the application to be made in such form as the Scottish Ministers may require. This is to enable applications to be made electronically when electronic signatures are recognised as being legally binding by virtue of delegated legislation made under the Electronic Communications Act 2000.

The rules relating to when a person is to be treated as an "independent student" for the purposes of determining the ordinary residence of that student are amended. The requirement that married students must have been married for at least two years to be treated as an independent student is removed (regulation 6), and the circumstances in which a person is to be treated as having supported themselves out of their earnings are updated (regulation 7).

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