EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations regulate the exercise by the Scottish Ministers of their powers under section 73(f) of the Education (Scotland) Act 1980 to pay education maintenance allowances to persons aged 16 to 19 who are attending courses of education. They prescribe that education maintenance allowances may only be paid to persons who fulfil certain criteria as to eligibility and they prescribe the conditions and requirements subject to which such education maintenance allowances may be paid.

The eligibility criteria are detailed in regulation 3 and Schedule 1. Schedule 1 lists the eligibility criteria for different categories of persons, including persons ordinarily resident in the United Kingdom, EEA migrant workers, their spouses and children, refugees, their spouses and children and persons with leave to enter or remain in the United Kingdom. Paragraph 7 of Schedule 1 has a further category of eligible persons, being those people who are granted temporary protection. This category is included in these Regulations to fulfil the requirements of Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between member States in receiving such persons and bearing the consequences thereof (O.J. No. L 212, 20.7.01, p.12.).

Regulation 4 provides that the amount of an education maintenance allowance is to be determined by the Scottish Ministers and specifies matters to be taken in to account in making that determination. Regulation 5 specifies conditions on which education maintenance allowances are to be held. Schedule 2 makes provision as to when a person is to be treated as “ordinarily resident”.