
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 153

The Students' Allowances (Scotland) Regulations 2007

Interpretation

2.—(1) In these Regulations—

“allowance” means an allowance paid or to be paid under these Regulations;

“Directive 2004/38” means Directive [2004/38/EC](#) of the European Parliament and of the Council⁽¹⁾ on the rights of citizens of the Union and their family members to move and reside freely in the territory of the member States;

“EEA frontier self employed person” means an EEA national who—

- (a) is a self employed person (within the meaning of article 7 of Directive 2004/38) in Scotland; and
- (b) resides in Switzerland or the territory of an EEA state other than the United Kingdom and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“EEA frontier worker” means an EEA national who—

- (a) is a worker (within the meaning of article 7 of Directive 2004/38) in Scotland; and
- (b) resides in Switzerland or the territory of an EEA state other than the United Kingdom and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“EEA migrant worker” means an EEA national in the United Kingdom who is a worker (within the meaning of article 7 of Directive 2004/38) but who is not an EEA frontier worker;

“EEA national” means a national of an EEA state other than the United Kingdom;

“EEA self employed person” means an EEA national in the United Kingdom who is a self employed person (within the meaning of article 7 of Directive 2004/38) but who is not an EEA frontier self employed person;

“employment” means full-time or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and references to employment include references to the holding of any office and to any occupation for gain;

“EU overseas territories” means Aruba, Faeroe Islands, French Polynesia, French Southern and Antarctic Territories, Greenland Henderson, Mayotte, Netherlands Antilles (Bonaire, Curcao, Saba, Sint Eustatius and Sint Maarten), the Territory of New Caledonia and Dependencies, St Pierre et Miquelon and Wallis and Futuna Islands;

“EU overseas territories national” means a national of any of the EU overseas territories;

“European Economic Area” means the area of the EEA states and includes those States at any time before they became EEA states;

“family member” means—

(1) O.J. No. L 158, 30.04.04, p.77.

- (a) in relation to an EEA frontier worker, an EEA migrant worker, an EEA frontier self employed person, an EEA self employed person–
 - (i) their spouse or civil partner;
 - (ii) their child or the child of their spouse or civil partner;
 - (iii) their dependent direct relatives in the ascending line or those of their spouse or civil partner;
- (b) in relation to a Swiss employed person, a Swiss frontier employed person, a Swiss frontier self employed person or a Swiss self employed person–
 - (i) their spouse or civil partner;
 - (ii) their child or the child of their spouse or civil partner;
- (c) in relation to a non UK EC national who is not self sufficient within the meaning of Article 7(1)(b) of Directive 2004/38 or an EU overseas territories national–
 - (i) their spouse or civil partner;
 - (ii) their direct descendants or those of their spouse or civil partner who are–
 - (aa) under the age of 21;
 - (bb) their dependants or those of their spouse or civil partner;
- (d) in relation to a non UK EC national who is self sufficient within the meaning of Article 7(1)(b) of Directive 2004/38 or an EU overseas territories national–
 - (i) their spouse or civil partner;
 - (ii) their direct descendants or those of their spouse or civil partner who are–
 - (aa) under the age of 21;
 - (bb) their dependants or those of their spouse or civil partner;
 - (iii) their dependent direct relatives in the ascending line or those of their spouse or civil partner; and
- (e) in relation to a United Kingdom national, for the purposes of paragraph 4 of Schedule 1–
 - (i) their spouse or civil partner;
 - (ii) their direct descendants or those of their spouse or civil partner who are–
 - (aa) under the age of 21;
 - (bb) their dependants or those of their spouse or civil partner;
 - (iii) their dependent direct relatives in the ascending line or those of their spouse or civil partner;

“Islands” means the Channel Islands and the Isle of Man;

“non UK EC national” means a person who is a national for the purposes of the Community Treaties of any member State of the European Community other than the United Kingdom;

“parent” includes a step parent, a guardian, any other person having parental responsibilities for a child and any person having care of a child, and “child” shall be construed accordingly;

“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⁽²⁾ as extended by the Protocol thereto which entered into force on 4th October 1967⁽³⁾;

(2) Cm. 9171.

(3) Cm. 3906 (Out of print: photocopies are available, free of charge, from the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, South Gyle, Edinburgh EH12 9HH).

“relevant date” in relation to a course of education for which an allowance is sought means—

- (a) for a course starting in the period 1st August to 31st December, 1st August in that year;
- (b) for a course starting in the period 1st January to 31st March, 1st January in that year;
- (c) for a course starting in the period 1st April to 30th June, 1st April in that year; and
- (d) for a course starting in the period 1st July to 31st July, 1st July in that year;

“Swiss employed person” means a Swiss national in the United Kingdom who is an employed person within the meaning of Annex 1 to the Switzerland Agreement, but who is not a Swiss frontier employed person;

“Swiss frontier employed person” means a Swiss national who—

- (a) is an employed person (within the meaning of Annex 1 to the Switzerland Agreement) in Scotland; and
- (b) resides in Switzerland or in the territory of an EEA state other than the United Kingdom and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“Swiss frontier self employed person” means a Swiss national who—

- (a) is a self employed person (within the meaning of Annex 1 to the Switzerland Agreement) in Scotland ; and
- (b) resides in Switzerland or in the territory of an EEA state, other than the United Kingdom, and returns to their residence in Switzerland or that EEA state, as the case may be, daily or at least once a week;

“Swiss self employed person” means a Swiss national in the United Kingdom who is a self employed person within the meaning of Annex 1 to the Switzerland Agreement), but who is not a Swiss frontier self employed person;

“Switzerland Agreement” means the Agreement between the European Community and its member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21st June 1999⁽⁴⁾ and which came into force on 1st June 2002; and

“temporary protection” means limited leave to enter or remain granted pursuant to Part 11A of the Immigration Rules⁽⁵⁾.

- (2) In these Regulations, except where the context otherwise requires, any reference—
 - (a) to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations; and
 - (b) in a regulation or Schedule to a numbered paragraph is a reference to the paragraph so numbered in that regulation or Schedule, as the case may be.

(4) Cm. 5639.

(5) HC 395; relevant amending instrument is HC 164.