

EXECUTIVE NOTE

THE EDUCATION (AMENDMENTS IN RESPECT OF GRADUATE ENDOWMENT, STUDENT FEES AND SUPPORT) (SCOTLAND) REGULATIONS 2007/503

Relationship to current policy/practice

The changes being made fit with current policy but also develop it by extending support to specific categories of student who were not previously outlined in the regulations as being eligible for support.

These Regulations amend the Education (Fees and Awards) Regulations 2007, the Students' Allowances (Scotland) Regulations 2007, the Education Maintenance Allowances (Scotland) Regulations 2007, the Graduate Endowment (Scotland) Regulations 2007, the Education Authority Bursaries (Scotland) Regulations 2007, the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007, the Education (Student Loans) (Scotland) Regulations 2007 and the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006.

Policy Rationale

The changes being made relate to access and financial support for students in the following groups to undertake higher and further education in Scotland:

- (i) children of asylum seekers and young unaccompanied asylum seekers;
- (ii) children of Turkish workers;
- (iii) persons who have utilised a right of residence in the EEA or Switzerland and their family members.

Scottish Ministers have a general concern for the well being and human rights of all children including those of asylum seeking families and those that have sought asylum in their own right. They feel that these children have the same human rights as other Scottish children and are concerned that where possible the Scottish Government and Scottish public services support young asylum seekers and children of asylum seekers.

Amendments are therefore being made in relation to children of asylum seekers and young unaccompanied asylum seekers to allow them to be treated as excepted students in relation to fees. This means they will be charged the lower rate of fees rather than the rate set for overseas students when undertaking full-time further and higher education courses. Amendments are also made to allow these persons to receive fee support. The amendments relate only to persons who were under 18 at the time the application for asylum was made (the application must have been made prior to 1 December 2006) and who are under 25 at the appropriate date relative to the beginning of the course. As a result we are talking about a small, time-limited group of individuals.

Amendments are also made to comply with article 9 of Decision No. 1/80 of the Association Council of 19th September 1980 on the development of the Association between the European Community and Turkey. Article 9 of Decision No. 1/80 of the Association Council

of 19th September 1980 on the development of the association provides: “Turkish children residing legally in a Member State of the Community with their parents who are or have been legally employed in that member State, shall be admitted to courses of general education, apprenticeship and vocational training under the same educational entry qualifications as the children of nationals of that member State. They may in that Member State be eligible to benefit from the advantages provided for under the national legislation in this area.”.

We have always complied with the terms of the agreement in relation to "general education, apprenticeship and vocational training"; however, the recent decision by the European Court of Justice in the Gurol case decided that vocational training comprised all further and higher education. Therefore, it was necessary to amend our student support legislation to include this category of persons.

These Regulations also make amendments to remove, in relation to family members of persons who have utilised a right of residence in the EEA and Switzerland, the necessity to have settled status within the meaning of the Immigration Act 1971. The requirement for ordinary residence in either Scotland or the United Kingdom and Islands at the appropriate date relative to the beginning of the course is removed for those persons who have utilised a right of residence in the EEA and Switzerland and for their family members.

These Regulations also amend the Graduate Endowment (Scotland) Regulations 2007 (S.S.I. 2007/155) to correct a drafting error relating to statutory cross-references to the Further and Higher Education (Scotland) Act 2005 which should have been to the Further and Higher Education (Scotland) Act 1992.

Financial Implications

The Amendment Regulations have negligible financial effects on the Scottish Government, Local Government or business. It has not been necessary to prepare a Regulatory Impact Assessment.

The Amendment Regulations will potentially increase the demand for support from students in higher education (HE). However, as the number of places which can be funded by the Scottish Higher Education Funding Council in HE is limited, and the fact that eligibility for support has only been extended to a limited group of students, may lead to increased demand but it will not necessarily lead to an overall increase in expenditure.

Education - Lifelong Learning
Higher Education Support