

2008 No. 206

EDUCATION

**The Education (Means Testing) (Scotland) Amendment
Regulations 2008**

<i>Made</i> - - - -	<i>29th May 2008</i>
<i>Laid before the Scottish Parliament</i>	<i>2nd June 2008</i>
<i>Coming into force</i> - -	<i>1st August 2008</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 73(f) and 74(1) of the Education (Scotland) Act 1980(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Education (Means Testing) (Scotland) Amendment Regulations 2008 and come into force on 1st August 2008.

Amendment of the Students' Allowances (Scotland) Regulations 2007

2. The Students' Allowances (Scotland) Regulations 2007(b) are amended in accordance with regulations 3 and 4.

3. In regulation 2(1) (interpretation) after the definition of "parent" insert—
- ““partner” for the purposes of regulation 4 means in relation to the holder or the holder’s parent—
- (a) the spouse of that person;
 - (b) the civil partner of that person; or
 - (c) a person ordinarily living with that person as if he or she were the spouse or civil partner of that person.”.

4.—(1) Regulation 4 (amount of allowances) is amended as follows.

(2) For paragraph (3) substitute—

“(3) In determining the amount of an allowance, the Scottish Ministers shall take account of the sums, if any, which, in accordance with principles determined by them from time to time, the holder, the holder’s partner, the holder’s parents and the holder’s parents’ partners can reasonably be expected to contribute towards the holder’s expenses.”.

(a) 1980 c.44 (“the 1980 Act”). Section 73(f) of the 1980 Act 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(1) of the 1980 Act 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 contained in sections 73(f) and 74(1) of the 1980 Act were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2007/153, amended by S.S.I. 2007/503.

(3) For paragraph (4)(b) substitute–

“(b) all the circumstances of the holder, the holder’s partner, the holder’s parents and the holder’s parents’ partners; or”.

Amendment of the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007

5. The Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(**a**) are amended in accordance with regulations 6 and 7.

6. In regulation 2 (interpretation) after the definition of “parent” insert–

““partner” for the purposes of regulation 4 means in relation to the holder–

- (a) the spouse of the holder;
- (b) the civil partner of the holder; or
- (c) a person ordinarily living with the holder as if he or she were the spouse or civil partner of the holder.”.

7.—(1) Regulation 4 (amount of allowances) is amended as follows.

(2) For paragraph (3)(b) substitute–

“(b) the holder’s partner can reasonably be expected to contribute to the holder’s expenses.”.

(3) For paragraph (4)(b) substitute–

“(b) all the circumstances of the holder, the holder’s partner and persons dependent on the holder; or”.

Amendment of the Education (Student Loans) (Scotland) Regulations 2007

8. The Education (Student Loans) (Scotland) Regulations 2007(**b**) are amended in accordance with regulations 9 and 10.

9. In regulation 2(1) (interpretation) after the definition of “parent” insert–

““partner” for the purposes of regulation 11 means in relation to the eligible student or the eligible student’s parent–

- (a) the spouse of that person;
- (b) the civil partner of that person; or
- (c) a person ordinarily living with that person as if he or she were the spouse or civil partner of that person.”.

10. In regulation 11(1) (means test) for “and the eligible student’s spouse or civil partner” substitute “, the eligible student’s parents’ partners and the eligible student’s partner”.

FIONA HYSLOP

A member of the Scottish Executive

St Andrew’s House,
Edinburgh
29th May 2008

(a) S.S.I. 2007/151, amended by S.S.I. 2007/503.

(b) S.S.I. 2007/154, amended by S.S.I. 2007/503.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Students' Allowances (Scotland) Regulations 2007, the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 and the Education (Student Loans) (Scotland) Regulations 2007.

Amendments are made to the means test assessments contained in each of the above instruments so that (1) in the determination of the amount of a students' allowance the Scottish Ministers must now take into account the sums which a person ordinarily living with the holder or the holder's parent as a spouse or civil partner can reasonably be expected to contribute towards the holder's expenses; (2) in the determination of the amount of a nursing or midwifery allowance the Scottish Ministers must now take into account the sums which a person ordinarily living with the holder as a spouse or civil partner can reasonably be expected to contribute towards the holder's expenses; and (3) in the determination of the amount of a student loan the Scottish Ministers must now take into account the sums which a person ordinarily living with the eligible student or the eligible student's parent as a spouse or civil partner can reasonably be expected to contribute towards the eligible student's expenses.

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