

EXECUTIVE NOTE

THE EDUCATION (FEES AND AWARDS FOR EC NATIONALS AND UK RETURNERS) (SCOTLAND) REGULATIONS 2009

SSI 2009/188

Relationship to Current Policy/Practice

The changes being made fit with current policy. We have an obligation to comply with EU legislation, on review of the existing legislation in place it was felt that change was necessary to ensure this compliance.

These Regulations amend the Education (Student Loans of Tuition Fees) (Scotland) Regulations 2006 (“the SLTF Regulations”), the Education Authority Bursaries (Scotland) Regulations 2007 (“the Bursaries Regulations”), the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007 (“the Nursing Regulations”), the Education (Fees and Awards) (Scotland) Regulations 2007 (“the Fees Regulations”), the Students’ Allowances (Scotland) Regulations 2007 (“the Allowances Regulations”), the Education (Student Loans) (Scotland) Regulations 2007 (“the Loans Regulations”) and the Education Maintenance Allowances (Scotland) Regulations 2007 (“the EMA Regulations”).

Policy Proofing

Regulations 2, 5(a), 8(a), 11(a), 12, 16(a), 17 and 18 amend the eligibility criteria pertaining to persons who have previously been settled in and are returning to the UK which are set out in the SLTF Regulations, the Bursaries Regulations, the Nursing Regulations, the Fees Regulations, the Allowances Regulations, the Loans Regulations and the EMA Regulations. The effect of the amendments is that a person who has previously been settled in the UK and is returning to the UK to study may be eligible for home rate fees and student support where he or she has exercised a right of residence elsewhere in the European Economic Area even if the exercise of this right of residence was not immediately after the person left the UK. Previously, such a person would only be eligible for home rate fees and student support where he or she exercised a right of residence elsewhere in the European Economic Area immediately after he or she left the UK.

Combined with the amendments made to certain of the defined terms, regulations 5(b), 8(b), 11(b), 13 and 16(b) amend the eligibility criteria pertaining to EC nationals which are set out in the Bursaries Regulations, the Nursing Regulations, the Fees Regulations and the Allowances Regulations. The effect of the amendments is that a person who is an EC national (other than a UK national who has not exercised a right of residence elsewhere in the European Economic Area) may be eligible for an allowance in respect of tuition and other fees only for which only non UK EC nationals were previously eligible. Previously, a person who is an EC national would

only be eligible for an allowance in respect of tuition and other fees if he or she was not also a UK national

Financial Implications

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

The regulations will potentially increase the demand for support from students in higher education. However, as the number of places which can be funded by the Scottish Higher Education Funding Council at university is limited, it may lead to an increased demand but it will not necessarily lead to an overall increase in expenditure.

LLD:HELS
11 May 2009