

EXECUTIVE NOTE

THE EDUCATION (FEES, AWARDS AND STUDENT SUPPORT) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2009

SSI 2009/309

1. The above instrument is made in exercise of the powers conferred by sections 49(3), 73(f) and 74(1) of the Education (Scotland) Act 1980 and sections 1 and 2 of the Education (Fees and Awards) Act 1983. The instrument is subject to negative resolution.

Policy Objectives

Extending entitlement to student support to certain Iraqi nationals

2. The Locally Engaged Staff Assistance Scheme (LESAS) is a scheme operated by the UK Government to assist Iraqi staff working for the armed forces and civilian missions in Iraq. Under LESAS, Iraqi staff employed on or after 1 January 2005 up to 8 August 2007 could apply for re-settlement in the UK. Successful applicants were given refugee status and as such would be entitled to support for education on that basis without the requirement of having resided in the UK for 3 years.

3. Successful applicants who were employed in Iraq from 8 August 2007 are no longer given refugee status and are instead granted indefinite leave to enter the UK. As a result, such persons no longer qualify for support for education unless they have resided in the UK for 3 years.

4. The Instrument proposes to address this issue and ensure that persons employed in Iraq from 8 August 2007 and who are granted indefinite leave to enter the UK under LESAS are eligible to the same support for education were they to have had refugee status.

Clarifying residence requirements for students from the Channel Islands and Isle of Man

5. Students from the Channel Islands and Isle of Man (“the Islands”) who come to Scotland to study a course of education at an institution of higher education or college of further education are charged tuition fees which have been calculated according to methodology agreed by the Island authorities and Universities UK. The Instrument proposes to amend the Education (Fees and Awards) (Scotland) Regulations 2007 (“the Fees Regulations”) to make it clear that students who move from the Islands to Scotland for the purposes of undertaking a course will be regarded as being ordinarily resident in the Islands so that such fees may continue to be charged.

Legal effect of the Regulations

6. The Instrument amends the Education (Student Loans for Tuition Fees) 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 Fees Regulations, the Student 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).

7. Through the amendments made by regulations 2, 4, 7, 12, 13, 15, 17 and 18 an Iraqi national who has been granted indefinite leave to enter the United Kingdom under the Locally Engaged Staff Assistance Scheme (Direct Entry) (and such a person’s spouse, civil partner and child (and stepchild in the case of the SLTF Regulations)) who meets the relevant residence requirements shall be—

(a) an excepted student under the Fees Regulations and entitled to be charged home rate fees for a course to which the Fees Regulations apply;

(b) eligible for a loan under the SLTF Regulations and the Loans Regulations;

(c) eligible for an allowance under the Nursing Regulations and the Allowances Regulations;

(d) eligible for a bursary under the Bursaries Regulations; and

(e) eligible for an education maintenance allowance under the EMA Regulations.

8. Regulations 10 and 11 amend the Fees Regulations to make it clear that students who move from the Islands to the United Kingdom for the purposes of undertaking a course will be regarded as being ordinarily resident in the Islands.

9. Regulations, 5, 8 and 16 amend the Bursaries Regulations, the Nursing Regulations and Allowances Regulations so as to correct erroneous references.

Financial Implications

10. 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.

Lifelong Learning Directorate