

2016 No. 82

EDUCATION

**The Education (Fees, Awards and Student Support)
(Miscellaneous Amendments) (Scotland) Regulations 2016**

Made - - - - *2nd February 2016*

Laid before the Scottish Parliament *4th February 2016*

*Coming into force in accordance with regulation 1(2), (3)
and (4)*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 49(3), 73(f), 73B and 74(1) of the Education (Scotland) Act 1980(a), section 1 of the Education (Fees and Awards) Act 1983(b) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Education (Fees, Awards and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2016.

(2) Regulations 1, 11, 12 and 13 come into force on 31st March 2016.

(3) Regulations 2, 3 and 4 come into force on 5th April 2016.

(4) Regulations 5, 6, 7, 8, 9, 10 and 14 come into force on 1st August 2016.

Amendment of the Repayment of Student Loans (Scotland) Regulations 2000

2. The Repayment of Student Loans (Scotland) Regulations 2000(c) are amended in accordance with regulations 3 and 4.

3.—(1) Regulation 2 (interpretation) is amended in accordance with this regulation.

(2) In the definition of “repayment threshold”—

(a) in paragraph (b) omit “but before or on 5th April 2016”;

(b) omit from “; and” at the end of paragraph (b) to the end of paragraph (c).

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- (a) 1980 c.44. Section 73(f) was amended by the Teaching and Higher Education Act 1998 (c.30) (“the 1998 Act”), section 29(1) and by the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6) (“the 2001 Act”), section 3(2). Section 73B was inserted by the 1998 Act, section 29(2) and was amended by the 2001 Act, section 3(3); by the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, Part 2, paragraph 149; and by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 34(1). Section 74(1) was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), section 82(1) and Schedule 10, paragraph 8(17). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) (“the Scotland Act”).
- (b) 1983 c.40. Section 1 was relevantly amended by the Education Reform Act 1988 (c.40), section 237(1) and Schedule 12, paragraph 91; by the Further and Higher Education Act 1992 (c.13), section 93(1) and Schedule 8, paragraph 19; and by the Further and Higher Education (Scotland) Act 1992 (c.37), section 62(2) and Schedule 9, paragraph 8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act.
- (c) S.S.I. 2000/110, relevantly amended by S.S.I. 2007/159, 2009/102, 2012/22 and 2013/80.

4. In regulation 13B(2A) omit “until and including 6th April 2015”.

Amendment of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006

5.—(1) The Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006(a) are amended in accordance with this regulation.

(2) In Schedule 1 (eligible students) after paragraph 6A insert—

“**6B.** A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and
- (iii) is ordinarily resident in Scotland on the first day of the first academic year of the course; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a) and who is ordinarily resident in Scotland on the first day of the first academic year of the course.”.

Amendment of the Education Authority Bursaries (Scotland) Regulations 2007

6.—(1) The Education Authority Bursaries (Scotland) Regulations 2007(b) are amended in accordance with this regulation.

(2) In Schedule 1 (persons eligible for bursaries) after paragraph 6A insert—

“**6B.** A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the British Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and
- (iii) is ordinarily resident in the area of the education authority on the qualifying day, or seeks a bursary in respect of a course of study at an educational establishment in the area of the education authority; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a) and who meets a residence requirement specified in subparagraph (a)(iii).”.

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

7.—(1) The Nursing and Midwifery Student Allowances (Scotland) Regulations 2007(c) are amended in accordance with this regulation.

(a) S.S.I. 2006/333, amended by S.S.I. 2007/158 and 503, 2009/188, 189 and 309, 2010/300, 2012/72, 2013/80 and S.I. 2010/1010.

(b) S.S.I. 2007/149, amended by S.S.I. 2007/503, 2009/188 and 309, 2012/72 and 2013/80.

(c) S.S.I. 2007/151, amended by S.S.I. 2007/503, 2008/206, 2009/188 and 309, 2012/72 and 2013/80.

(2) In Schedule 1 (persons eligible for allowances) after paragraph 6A insert—

“**6B.** A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and
- (iii) is ordinarily resident in the United Kingdom on the relevant date; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a) and who is ordinarily resident in the United Kingdom on the relevant date.”.

Amendment of the Education (Fees and Awards) (Scotland) Regulations 2007

8.—(1) The Education (Fees and Awards) (Scotland) Regulations 2007(a) are amended in accordance with this regulation.

(2) In Schedule 1 (fees – excepted students) after paragraph 6A insert—

“**6B.** A person shall be an excepted student if that person—

- (a) is a Syrian national who has been—
 - (i) granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department; and
 - (ii) ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a).”.

Amendment of the Students’ Allowances (Scotland) Regulations 2007

9.—(1) The Students’ Allowances (Scotland) Regulations 2007(b) are amended in accordance with this regulation.

(2) In regulation 2(3) and (4) after “6A(a)(iii) and (b)” insert “, 6B(a)(iii) and (b)”.

(3) In Schedule 1 (persons eligible for allowances) after paragraph 6A insert—

“**6B.** A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and
- (iii) is ordinarily resident in Scotland on the relevant date; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a) and who is ordinarily resident in Scotland on the relevant date.”.

(a) S.S.I. 2007/152, amended by S.S.I. 2007/503, 2009/188 and 309, 2010/325, 2011/389, 2012/72 and 2013/80.

(b) S.S.I. 2007/153, amended by S.S.I. 2007/503, 2008/206, 2009/188 and 309, 2012/72 and 2013/80.

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

10.—(1) The Education (Student Loans) (Scotland) Regulations 2007(a) are amended in accordance with this regulation.

(2) In Schedule 1 (eligible students) after paragraph 6A insert—

“**6B.** A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and
- (iii) is ordinarily resident in Scotland on the first day of the first academic year of the course; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a) and who is ordinarily resident in Scotland on the first day of the first academic year of the course.”.

Amendment of the Education Maintenance Allowances (Scotland) Regulations 2007

11. The Education Maintenance Allowances (Scotland) Regulations 2007(b) are amended in accordance with regulations 12 and 13.

12. After paragraph (1) of regulation 2 (interpretation) insert—

“(2) In Schedule 1 for the purposes of paragraphs (1)(a), 5(b), 6(a)(iii) and (b), 6A(a)(iii) and (b), 6B(a)(iii) and (b) and 7(c) a person who is ordinarily resident in Scotland as a result of having moved from the Islands for the purpose of undertaking a course of education is to be considered to be ordinarily resident in the Islands.

(3) In Schedule 1 for the purposes of paragraphs (1)(a), 5(b), 6(a)(iii) and (b), 6A(a)(iii) and (b), 6B(a)(iii) and (b) and 7(c) a person who is ordinarily resident in Scotland as a result of having moved from a part of the United Kingdom other than Scotland for the purpose of undertaking a course of education is to be considered to be ordinarily resident in the part of the United Kingdom from where they moved.”.

13.—(1) Schedule 1 (persons eligible for education maintenance allowances) is amended in accordance with this regulation.

(2) For paragraph 4(1)(b) substitute—

“(b) was ordinarily resident in Scotland (and the Scottish Ministers are satisfied that such residence was not in any sense attributable to, or connected with, any period of residence in Scotland within the 3 years immediately preceding in respect of which any part of its purpose was wholly or mainly that of receiving full time education) and settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971 immediately before leaving the United Kingdom and who has utilised a right of residence;”.

(a) S.S.I. 2007/154, amended by S.S.I. 2007/503, 2008/205 and 206, 2009/188, 189 and 309, 2010/300, 2012/72 and 2013/80 and S.I. 2010/1010.

(b) S.S.I. 2007/156, amended by S.S.I. 2007/503, 2009/188 and 309, 2011/261, 2012/72 and 2013/80 and S.I. 2008/1879.

(3) After paragraph 6A insert—

“**6B.** A person who—

- (a) (i) is a Syrian national who has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
- (ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and
- (iii) is ordinarily resident in Scotland on the qualifying date; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a) and who is ordinarily resident in Scotland on the qualifying date.”.

Amendment of the Education (Fees) (Scotland) Regulations 2011

14.—(1) The Education (Fees) (Scotland) Regulations 2011(a) are amended in accordance with this regulation.

(2) In regulation 2(3) and (4) after “6(a)(iii) and (b)” insert “, 6A(a)(iii) and (b)”.

(3) In Schedule 1 (fees – excepted students) after paragraph 6 insert—

“**6A.** A post 2011/12 student is an excepted student if that post 2011/12 student—

- (a) is a Syrian national who—
 - (i) has been granted humanitarian protection to enter the United Kingdom under the Syrian Vulnerable Persons Relocation Scheme operated by the Home Department;
 - (ii) has been ordinarily resident in the United Kingdom and Islands at all times since that person was first granted such humanitarian protection to enter the United Kingdom; and
 - (iii) is ordinarily resident in Scotland on the relevant date; or
- (b) is the spouse, civil partner or child of a person of the kind described in subparagraph (a) and who is ordinarily resident in Scotland on the relevant date.”.

ANGELA CONSTANCE
A member of the Scottish Government

St Andrew’s House,
Edinburgh
2nd February 2016

(a) S.S.I. 2011/389, amended by S.S.I. 2012/72 and 2013/80.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Repayment of Student Loans (Scotland) Regulations 2000 (“the 2000 Regulations”), the Education (Student Loans for 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 2007 Fees Regulations”), the Students’ Allowances (Scotland) Regulations 2007 (“the Allowances Regulations”), the Education (Student Loans) (Scotland) Regulations 2007 (“the Loans Regulations”), the Education Maintenance Allowances (Scotland) Regulations 2007 (“the EMA Regulations”) and the Education (Fees) (Scotland) Regulations 2011 (“the 2011 Fees Regulations”).

Regulation 3 amends regulation 2 (interpretation) of the 2000 Regulations to amend the definition of repayment threshold in relation to student loans to cover increases to that threshold after April 2015. Regulation 4 amends regulation 13B(2A) of the 2000 Regulations to remove the end date in the calculation of the fixed instalments for repayment, allowing the most recent price level index to be applied to the applicable threshold for repayment.

Regulations 5 to 10, 13(1) and (3) and 14 amend Schedule 1 to each of the SLTF Regulations, the Bursaries Regulations, the Nursing Regulations, the 2007 Fees Regulations, the Allowances Regulations, the Loans Regulations, the EMA Regulations and the 2011 Fees Regulations to insert a provision enabling Syrian nationals who have entered the United Kingdom through the Syrian Vulnerable Persons Relocation Scheme to be eligible for the relevant loans, allowances, fee support and living cost support from the date they enter the UK, without having to meet the normal 3 year residency requirements.

Regulations 11 and 12 amend regulation 2 (interpretation) of the EMA Regulations to insert provisions to ensure that students who move to Scotland from other parts of the United Kingdom and Islands, for the purpose of undertaking a course of education, are considered to be ordinarily resident in the place in the United Kingdom and Islands from where they moved.

Regulation 13(1) and (2) amends Schedule 1 to the EMA Regulations by substituting a paragraph to provide that individuals who were born and settled in the United Kingdom but then moved to a European Economic Area (“EEA”) country before returning to the United Kingdom after a period of time, shall only be eligible for education maintenance allowances if they were ordinarily resident in Scotland for 3 years immediately before moving to the EEA.

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