

POLICY NOTE

THE EDUCATION (FEES, AWARDS AND STUDENT SUPPORT) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2016

SSI 2016/82

The above instrument was made in exercise of the powers conferred by sections 49(3), 73(a) and (f), 73B 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 procedure.

Policy Objectives

The SSI amends nine sets of regulations: 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”).

Amendment of the SLTF Regulations, the Bursaries’ Regulations, the Nursing Regulations, the 2007 Fees Regulations, the Allowances Regulations, the Loans Regulations and the 2011 Fees Regulations

The 2011 Fees Regulations, the SLTF Regulations, the Nursing Regulations, the 2007 Fees Regulations, the EMA Regulations, the Allowances Regulations and the Loans Regulations make provision to provide loans, allowances, bursaries, fee support and living cost support to various categories of students.

The amendments are required to add an additional 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.

Amendments of the EMA Regulations

The EMA Regulations currently make provision for students moving from other parts of the UK to Scotland for the purposes of education to be treated as being ordinarily resident in Scotland at the start of the course, therefore enabling them to access and apply for an education maintenance allowance (“EMA”).

Other student support regulations differ in relation to determining ordinary residence. The Students’ Allowances (Scotland) Regulations 2007 were amended in 2012 to provide that students who move to Scotland from other parts of the UK for the purpose of undertaking a course of education are considered to be ordinarily resident in the place in the UK from where they moved. The EMA Regulations were not amended at that time as there were reciprocal arrangements with England for EMA payments until EMA was abolished in

England. The amendments to the EMA Regulations are therefore now required to align the eligibility criteria in the EMA Regulations with the eligibility criteria in the other student support regulations.

Amendments have also been made in relation to students who were born and settled in the UK, have then moved to an EEA country and, after a period of time, returned to the UK. Currently in terms of the EMA Regulations such a student would have to be resident for 3 years in any part of the UK before moving to the EEA. However, the main student support regulations differ in that the student will need to be resident in Scotland for 3 years before moving to the EEA. Again, the EMA Regulations were not amended when the main student support regulations were amended because of the reciprocal EMA payment arrangements with England. As the reciprocal arrangements are no longer in place, an amendment is now required to bring this provision in the EMA Regulations in line with the other student support regulations.

An amendment is also required to add an additional provision enabling Syrian nationals who have entered the United Kingdom through the Syrian Vulnerable Persons Relocation Scheme to be eligible for an Education Maintenance Allowance from the date they enter the UK, without having to meet the normal 3 year residency requirements.

Amendment of the 2000 Regulations

The 2000 regulations enabled the student loan repayment threshold to increase annually by the rate of inflation, until April 2015.

In February 2014, the then Cabinet Secretary for Education and Lifelong Learning, Michael Russell MSP agreed that the student loan threshold should increase with inflation for the lifetime of the loan book.

The amendment is necessary to cover the agreed increases to that threshold after April 2015.

Consultation

A consultation was not considered necessary due to the nature of the amendments.

Impact Assessments

No Equality Impact Assessment was considered necessary due to the nature of the amendments.

Financial Effects

A BRIA is not necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Advanced Learning And Science
28 January 2016