
S T A T U T O R Y I N S T R U M E N T S

1983 No. 1215 (S. 107)

EDUCATION, SCOTLAND

The Education (Fees and Awards) (Scotland) Regulations 1983

<i>Made - - - -</i>	<i>26th July 1983</i>
<i>Laid before Parliament</i>	<i>11th August 1983</i>
<i>Coming into Operation</i>	<i>15th August 1983</i>

In exercise of the powers conferred on me by sections 1 and 2 of the Education (Fees and Awards) Act 1983(a), I hereby make the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Education (Fees and Awards) (Scotland) Regulations 1983 and shall come into operation on 15th August 1983.

Interpretation

2.—(1) In these regulations:—

“education” includes post-graduate research otherwise than in the course of employment;

“education authority” means a regional or islands council;

“employment” means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding of any office and to any occupation for gain;

“European Community” means the area comprised by the member states of the European Economic Community (including the United Kingdom) as constituted from time to time;

“fees” includes charges however described;

“the Islands” means the Channel Islands and the Isle of Man;

(a) 1983 c. 40.

“national of a member state of the European Community” means a person who is a national for the purposes of the Community Treaties of any member state of the European Economic Community (including the United Kingdom) as constituted from time to time;

“refugee” means a person who is recognised by Her Majesty’s Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by the Protocol thereto which entered into force on 4th October 1967 or a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty’s Government though not so recognised;

(2) In these regulations a reference to a person’s son or daughter includes a reference to a person adopted in pursuance of adoption proceedings, a step-child and an illegitimate child of whom the person concerned is the mother or in whose case he has admitted paternity or been adjudged the putative father.

(3) Notwithstanding section 11 of the Interpretation Act 1978(a) section 3(2) of the Education (Fees and Awards) Act 1983 (references to the United Kingdom to include references to the Islands) shall not apply for the purpose of the interpretation of these regulations.

(4) In these regulations, unless the context otherwise requires, a reference to a regulation, Part or Schedule is a reference to a regulation or Part of these regulations or to a Schedule thereto, a reference in a regulation or Schedule to a paragraph is a reference to a paragraph of that regulation or Schedule and a reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph of that paragraph.

Lawful acts

3.—(1) Nothing in Part II shall be construed as rendering unlawful any discrimination arising from the remission in whole or in part of any fee (on grounds of financial hardship or otherwise) if it would have been lawful had these regulations not been made.

(2) Nothing in Part III shall be construed as rendering unlawful any discrimination arising from any rule of eligibility for an award if it would have been lawful had these regulations not been made.

PART II

FEES FOR TUITION ETC.

Scope of Part II

4.—(1) This Part shall have effect as respects the charging of relevant fees in respect of students attending a full-time or sandwich course provided by a central institution or college of education being an institution or, as the case may be, a college which is substantially dependent for its maintenance on public funds within the meaning of section 1(4) of the Education (Fees and Awards)

(a) 1978 c. 30.

Act 1983 or further education establishment; and any reference in this Part to a student shall be construed accordingly.

(2) In this regulation the following expressions have the meaning respectively assigned to them:—

“central institution” means an educational establishment for the provision of further education recognised as a central institution by regulations made by the Secretary of State;

“college of education” means an educational establishment in which further education is provided and the primary purpose of which is the education and training of teachers;

“full-time course” means a course normally involving not less than 15 hours attendance a week in term-time for the organised day-time study of a single subject or related subjects;

“further education establishment” means such an establishment which is provided by an education authority;

“sandwich course” means a course consisting of alternate periods of full-time study in an establishment and periods of experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year (the course being treated for the purpose of calculating attendance as beginning with the first period of full-time study and ending with the last such period) and, for the purposes hereof “periods of experience” means periods of industrial, professional or commercial experience associated with full-time study at the establishment but at a place outside the establishment except that, in the case of a student studying modern languages whose course includes periods of residence in a country whose language is the main language of that course, it means such periods of residence for which he is in gainful employment.

Relevant fees

5.—(1) For the purpose of this Part “relevant fees” means the aggregate of—

- (a) any fees for admission, registration or matriculation (including matriculation exemption);
- (b) any sessional or tuition fees;
- (c) any composition fee; and
- (d) any graduation fee,

in each case excluding any element thereof representing or attributable to such fees as are mentioned in paragraph (2).

(2) The fees last referred to in paragraph (1) are:—

- (a) any fees charged by an external body in respect of an examination or validation of a course or otherwise charged by such a body whose requirements must (for the purposes of a course) be met; and
- (b) charges for board and lodging.

Relevant connection with the United Kingdom and Islands

6. For the purposes of this Part a student has a relevant connection with the United Kingdom and Islands if:—

- (a) he has been ordinarily resident therein throughout the 3 year period preceding 1st September, 1st January or 1st April closest to the beginning of the first term of the student's course, and
- (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

Charging of higher relevant fees

7.—(1) Subject to Schedule 1, it shall be lawful to charge higher relevant fees in the case of students who have not a relevant connection with the United Kingdom and Islands than in the case of students having such a connection:

Providing that, in the case of a student pursuing a course which he began before 1st September 1980, the annual rate of the relevant fees shall not exceed—

- (a) £2,406, where the student's course is a post-graduate or comparable course;
- (b) £1,575, where the student's course, not being such as aforesaid, is a course of advanced further education, or
- (c) £843, in any other case.

(2) For the purposes of this regulation:—

“post-graduate or comparable course” means a course above first degree level and research training;

“course of advanced further education” means (a) a course designated above Scottish Certificate of Education Higher Grade or equivalent standard leading directly to a university degree or equivalent qualification, or (b) a course of equivalent standard to that referred to in paragraph (a) but not necessarily leading to a university degree or equivalent qualification.

PART III

POST-GRADUATE AGRICULTURAL STUDENTSHIPS

Scope of Part III

8. This Part shall have effect as respects the adoption by the Secretary of State of rules of eligibility for awards (however described) made by him in pursuance of section 4 of the Small Landholders (Scotland) Act 1911^(a) and any reference in this Part to an award or a candidate for an award shall be construed accordingly.

(a) 1911 c. 49.

Relevant connection with Scotland

9. For the purposes of this Part a candidate for an award has a relevant connection with Scotland if—

- (a) he has been ordinarily resident therein throughout the 3 year period preceding the date of his application for an award;
- (b) he has not been resident therein during any part of that 3 year period wholly or mainly for the purpose of receiving full-time education; and
- (c) he is a British citizen or otherwise enjoys in the United Kingdom the status of a commonwealth citizen.

Authorised eligibility rules

10. Subject to Schedule 2, it shall be lawful to adopt rules of eligibility for awards which confine the awards to candidates having a relevant connection with Scotland.

SCHEDULE 1

EXCEPTED STUDENTS

1. It shall not be lawful in pursuance of regulation 7 to charge higher fees in the case of a student who is an excepted student within the meaning of this Schedule.

2.—(1) A person who—

- (a) is a national of a member state of the European Community;
- (b) is the son or daughter of such a national; or
- (c) began his course before 1st January 1984;

shall be an excepted student if he satisfies the conditions mentioned in sub-paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that—

- (a) he has been ordinarily resident in the European Community throughout the 3 year period referred to in regulation 6(a); and
- (b) he has not been resident therein, during any part of that 3 year period, wholly or mainly for the purpose of receiving full-time education.

3. A refugee ordinarily resident in the United Kingdom and Islands who has not ceased to be so ordinarily resident since he was recognised as a refugee or was granted asylum, and the spouse, son or daughter of such a refugee, shall be an excepted student.

4.—(1) A person shall be an excepted student if—

- (a) at the date referred to in regulation 6(a) he is settled in the United Kingdom, and
- (b) he neither had the right of abode in the United Kingdom nor was settled therein at, or at a time before, the beginning of the 3 year period so referred to.

(2) References in this paragraph to a person having a right of abode in the United Kingdom or being settled therein have the same meanings as in the Immigration Act 1971(a).

(a) 1971 c. 77, amended by section 39 of the British Nationality Act 1981 (c. 61).

5. A person shall be an excepted student if—

- (a) he has not been ordinarily resident throughout the 3 year period referred to in regulation 6(a) in the United Kingdom and Islands, or
- (b) being a national of a member state of the European Community or the son or daughter of such a national he has not been so ordinarily resident in the European Community,

only because he, his spouse or his parent was temporarily employed outside the United Kingdom and Islands or, as the case may be, outside the European Community.

6. A person shall be an excepted student if he was admitted to his course in pursuance of arrangements with an institution outside the United Kingdom for the exchange of students on a fully reciprocal basis.

SCHEDULE 2

AWARDS—EXCEPTED CANDIDATES

1.—(1) It shall not be lawful in pursuance of regulation 10 to adopt rules of eligibility for awards which exclude from eligibility a person who is an excepted candidate within the meaning of this Schedule.

(2) In this Schedule “the relevant date” means, in relation to a candidate for an award, the date of his application therefor.

2. A person shall be an excepted candidate, if he was resident in Scotland on the relevant date and is the child of a national of a member state of the European Community who—

- (a) where he was employed on the said date, was then in employment in Scotland;
- (b) where he was not employed on that date (by reason of retirement or otherwise), was previously last employed in such employment, or
- (c) whether or not he was employed on that date, had, during the period of 3 years ending therewith, been in such employment for an aggregate period of not less than a year,

and where he would have a relevant connection with the European Community for the purposes of Part III, had any reference in regulation 9 to Scotland been a reference to the European Community and had sub-paragraph (c) of regulation 9 been omitted.

3.—(1) A national of a member state of the European Community shall be an excepted candidate, if he—

- (a) was resident in Scotland on the relevant date;
- (b) entered the United Kingdom wholly or mainly for the purpose of taking up, or of seeking, employment;
- (c) during the year preceding the relevant date has been in employment in Scotland for an aggregate period of not less than 9 months;
- (d) seeks an award in respect of a course provided by a vocational training establishment, being a course leading to a qualification which is needed for, or is designed to fit a person for, engagement in a specific profession or trade; and
- (e) would have a relevant connection with the European Community for the purposes of Part III, had any reference in regulation 9 to Scotland been a reference to the European Community and had sub-paragraph (c) of regulation 9 been omitted.

(2) For the purposes of this paragraph—

“qualification” includes authorisation, recognition, registration, enrolment, approval and certification;

“vocational training establishment” means a further education establishment being a vocational school within the meaning of Article 7 of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community^(a).

4. Subject to paragraph 6, a refugee ordinarily resident in the United Kingdom and Islands who has not ceased to be so ordinarily resident since he was recognised as a refugee or was granted asylum, and the spouse, son or daughter of such a refugee, shall be an excepted candidate.

5.—(1) Subject to paragraph 6, a person shall be an excepted candidate for the purposes of Part III, if he has not the relevant connection with Scotland mentioned in regulation 9, by reason only that—

- (a) he, his spouse or his parent was temporarily employed outside Scotland; or
- (b) he or his spouse was temporarily receiving full-time education outside Scotland.

(2) Subject to paragraph 6, a person shall be an excepted candidate if he would be such in pursuance of paragraph 2 or 3 but for his not having such a relevant connection with the European Community as is mentioned in the paragraph in question for the purposes of Part III where he has not that relevant connection by reason only that—

- (i) he, his spouse or his parent was temporarily employed outside the European Community; or
- (ii) he or his spouse was temporarily receiving full-time education outside the European Community.

6. Such persons as are mentioned in paragraph 4 or, as the case may be, in paragraph 5 shall only be excepted candidates where the Secretary of State has so determined.

New St. Andrew's House,
Edinburgh.
26th July 1983.

George Younger,
One of Her Majesty's
Principal Secretaries of State.

^(a) O.J. No. L257, 19.10.68, p.2 (O.J./S.E. 1968 (II), p.475).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations which come into operation on 15th August 1983 provide (subject to specified exceptions) that in the cases mentioned below it shall be lawful to differentiate between students with, and those without, a specified connection with the United Kingdom (including the Channel Islands and the Isle of Man) or with a particular part of the United Kingdom either as respects fees charged or in rules of eligibility for awards. Nothing in the regulations is to be construed as rendering unlawful anything done in this behalf which would have been lawful had the regulations not been made (regulation 3).

Part II relates to tuition and certain other fees (referred to as "relevant fees") in respect of full-time or sandwich courses provided by a central institution, a college of education or a further education establishment (regulations 4 and 5). Students who have not 3 years' ordinary residence in the United Kingdom and Islands or who, having such ordinary residence, have during the 3 year period been resident wholly or mainly for the purposes of receiving full-time education may be charged higher relevant fees unless they are "excepted students"; excepted students for the purposes of Part II include nationals of member states of the European Community with a corresponding connection with the Community, refugees and recently arrived immigrants (regulations 6 and 7 and Schedule 1).

Part III relates to rules of eligibility for post-graduate agricultural studentships (regulation 8) and makes provision similar to that for Part II save that, first, the required connection is with Scotland instead of the United Kingdom and Islands and, secondly, the rules may require a candidate to be a British or Commonwealth citizen (regulations 9 and 10 and Schedule 2).

"Excepted candidates" for the purposes of Part III include the children of European Community migrant workers, such workers themselves who seek an award in respect of a vocational training course at a vocational training establishment, and refugees. (Schedule 2).

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