

1983 No. 920

EDUCATION, ENGLAND AND WALES

The State Awards (Amendment) (No. 2) Regulations 1983

<i>Made</i> - - - -	<i>24th June 1983</i>
<i>Laid before Parliament</i>	<i>7th July 1983</i>
<i>Coming into Operation</i>	<i>1st August 1983</i>

In exercise of the powers conferred on the Secretary of State by sections 3(b) and (c) and 4 of the Education Act 1962(a), I hereby make the following Regulations:—

1. These Regulations may be cited as the State Awards (Amendment) (No. 2) Regulations 1983 and shall come into operation on 1st August 1983.
2. In these Regulations a reference to the principal Regulations is a reference to the State Awards Regulations 1978(b).
3. In Regulation 2(2) of the principal Regulations (interpretation) after the word “Regulation”, in the last two places where it occurs, there shall be inserted the words “or Schedule”.
4. In Regulation 3(1) of the principal Regulations (revocations) for the words “the Schedule” there shall be substituted the words “Schedule 1”.
5. At the beginning of Regulation 4(1) of the principal Regulations (authority to bestow awards) there shall be inserted the words “Subject to the provisions of Schedule 2 hereto relating to eligibility for state awards,”.
6. After the Schedule to the principal Regulations, which shall stand as Schedule 1, there shall be added the Schedule set out in the Appendix hereto.

(a) 1962 c. 12; the relevant provisions, as amended, are set out in Schedule 5 to the Education Act 1980 (c. 20).

(b) S.I. 1978/1096; the amending instrument is not relevant to the subject matter of these Regulations.

APPENDIX

SCHEDULE 2

ELIGIBILITY FOR STATE AWARDS

1.—(1) In this Schedule—

“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;

“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;

“relevant date”, in relation to an applicant for a state award, means the date of his application therefor;

“United Kingdom and Islands” means the United Kingdom, the Channel Islands and the Isle of Man.

(2) A person shall be treated for the purposes of paragraph 2 or 3(a) as ordinarily resident in England and Wales, in the United Kingdom and Islands or in the European Community (“the relevant area”) if the Secretary of State is satisfied that he was only not so resident in the relevant area at the date, or throughout the period, mentioned in the paragraph in question because—

- (a) he, his spouse or his parent was temporarily employed outside the relevant area, or
- (b) he or his spouse was temporarily receiving full-time education, or undertaking post-graduate research, outside the relevant area.

2.—(1) The Secretary of State shall not bestow a state award upon a person unless, subject to sub-paragraph (3)—

- (a) he is ordinarily resident in England and Wales on the relevant date and is not then resident therein wholly or mainly for the purpose of receiving full-time education, or
- (b) he is ordinarily resident in the United Kingdom and Islands on the relevant date and satisfies the Secretary of State that, on 30th June next following the relevant date, he will be ordinarily resident in England and Wales and will not then be resident therein wholly or mainly for the said purpose, or

- (c) he is resident in England and Wales on the relevant date and is the child of a national of a member state of the European Community who—
- (i) where he is employed on the relevant date, is then in employment in England and Wales, or
 - (ii) where he is not employed on that date (by reason of retirement or otherwise), was last employed in such employment, or
 - (iii) whether or not he is employed on that date, he has, during the period of three years ending therewith, been in such employment for an aggregate period of not less than a year, or
- (d) he is a national of a member state of the European Community who—
- (i) is resident in England and Wales on the relevant date,
 - (ii) entered the United Kingdom wholly or mainly for the purpose of taking up, or of seeking, employment,
 - (iii) during the year preceding the relevant date has been in employment in England and Wales for an aggregate period of not less than 9 months, and
 - (iv) 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.

(2) In sub-paragraph (1)(d)(iv)—

“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).

(3) In relation to a state bursary for adult education sub-paragraph (1) shall have effect as if the words “and Wales”, wherever they occur therein, had been omitted.

3. Subject to paragraphs 4 and 5, the Secretary of State shall not bestow a state award upon a person—

- (a) unless he has been ordinarily resident, throughout the period of three years preceding the relevant date, in the United Kingdom and Islands or, in the case of such a person as is mentioned in paragraph 2(c) or (d), has been so ordinarily resident in the European Community, or
- (b) if his residence in the United Kingdom and Islands or, as the case may be, the European Community has during any part of that period been wholly or mainly for the purposes of receiving full-time education or undertaking post-graduate research otherwise than in the course of employment.

(a) OJ No. L257, 19.10.68, p.2 (OJ/SE 1968 (II), p. 475).

4.—(1) Paragraph 3 shall not apply in the case of—

(a) 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 accorded asylum, or

(b) the spouse, son or daughter of such a refugee.

(2) The reference in this paragraph to a refugee'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 refugee is the mother or in whose case he has admitted paternity or been adjudged the putative father.

5. Paragraph 3(b) shall not apply in the case of a person who, in pursuance of paragraph 1(2), is treated as ordinarily resident in the United Kingdom and Islands or, as the case may be, the European Community throughout the period mentioned in paragraph 3(a).

24th June 1983.

Keith Joseph,
Secretary of State for
Education and Science.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the provisions of the State Awards Regulations 1978 relating to the bestowal of state awards.

The general arrangements made by the Secretary of State for the purposes of his functions under the Regulations of 1978 have provided that a state award should not be bestowed on a person who, on applying for an award, is not ordinarily resident in England and Wales and, throughout the three years preceding his application, has not been ordinarily resident in the British Islands; these arrangements are relaxed or modified in the case of applicants for awards who are refugees or the children of workers from the European Community.

The present Regulations make express provision in that behalf and further provide that the state award shall not be bestowed on a person if his residence in the British Islands (or the European Community, as appropriate) has during any part of the three year period preceding his application been wholly or mainly for purposes of receiving full-time education or undertaking post-graduate research.

They also extend the existing arrangements relating to the eligibility of refugees for awards to their spouses and children and take account of the provisions of Article 7 of E.E.C. Regulation 1612/68 relating to the access of workers from the European Community to training in vocational schools.

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