

1988 No. 1391

**EDUCATION, ENGLAND AND WALES
EDUCATION, SCOTLAND**

**The Education (Fees and Awards) (Amendment)
Regulations 1988**

Made - - - - 4th August 1988

Laid before Parliament 10th August 1988

Coming into force 1st September 1988

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

1. These Regulations may be cited as the Education (Fees and Awards) (Amendment) Regulations 1988 and shall come into force on 1st September 1988.

2. For Schedule 3 to the Education (Fees and Awards) Regulations 1983(b) there shall be substituted the following schedule—

“SCHEDULE 3

MAINTENANCE AWARDS—EXCEPTED CANDIDATES

1. In this Schedule “the relevant territory” means the territory comprising the European Community and (as regards any period prior to their accession to that Community) the Kingdom of Spain and the Portuguese Republic.

2. It shall not be lawful in pursuance of regulation 10, 13(1)(a), or 16 to adopt rules of eligibility for maintenance awards which exclude from eligibility a person who is an excepted candidate within the meaning of this schedule.

3. A person shall be an excepted candidate if—

(a) he is eligible for a maintenance award by virtue of Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community(c), and

(b) he would have a relevant connection with the European Community or the relevant territory for the purposes of Part III, Part IV or, as the case may be, Part V had any reference in regulation 9, in regulation 12, or in regulation 15 to the United Kingdom and Islands or to England and Wales been a reference to the European Community or the relevant territory, and had sub-paragraph (c) of regulation 15 been omitted.

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 or son or daughter of such a refugee, shall be an excepted candidate.

(a) 1983 c.40.

(b) S.I. 1983/973, as amended by S.I. 1984/1201, 1985/1219 and 1987/1364.

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

5.—(1) Subject to paragraph 6, a person shall be an excepted candidate—

- (a) for the purposes of Part III, if he has not the relevant connection with the United Kingdom and Islands mentioned in regulation 9,
- (b) for the purposes of Part IV, if he has not the relevant connection with the United Kingdom and Islands or with Great Britain mentioned in regulation 12 as the maker of the awards has determined in pursuance of regulation 13(1)(a) and, where the eligibility rules adopted contain such provision as is mentioned in regulation 13(1)(b), if he is not, and cannot satisfy the maker of the awards that he will be, ordinarily resident as mentioned therein,
- (c) for the purposes of Part V, if he has not the relevant connection with England and Wales mentioned in regulation 15,

by reason only that—

- (i) he, his spouse or his parent was temporarily employed outside the relevant area referred to in the sub-paragraph in question, that is to say, outside the United Kingdom and Islands, outside Great Britain or, as the case may be, outside England and Wales, or
- (ii) in the case only of Part IV or V, he or his spouse was temporarily receiving full-time education outside the relevant area referred to in sub-paragraph (b) or, as the case may be, sub-paragraph (c).

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

- (a) for the purposes of Part III,
- (b) for the purposes of Part IV, or
- (c) for the purposes of Part V

as the case may be, 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 the relevant territory;
- (ii) in the case only of Part IV or V, he or his spouse was temporarily receiving full-time education outside the European Community or the relevant territory.

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 maker of the awards has so determined.'''.

4th August 1988

Angela Rumbold
Minister of State,
Department of Education and Science

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 3 to the Education (Fees and Awards) Regulations 1983 which provide, subject to certain exceptions, that it is lawful to differentiate between students with and those without a specified connection with the United Kingdom, the Channel Islands and the Isle of Man or with a particular part of the United Kingdom either as respects fees charged or eligibility for awards.

The main changes relate to the exception in Schedule 3 as regards certain European Community migrant workers and their children. The main effect of the changes in their case is that it is no longer lawful to require such workers, in order to be eligible for a maintenance award, to have been in employment in the United Kingdom for 9 months or to be seeking an award in respect of a course provided by a vocational training establishment. Instead they will be excepted candidates where they are eligible for a maintenance award by virtue of Article 7(2) or (3) or Article 12 of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community and where they satisfy a test of a minimum period of ordinary residence in the Community or (prior to their accession) Spain and Portugal.