

1988 No. 1392

EDUCATION, ENGLAND AND WALES

The State Awards (Amendment) Regulations 1988

Made - - - - - 3rd 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 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) Regulations 1988 and shall come into force on 1st September 1988.
2. In the saving to regulation 10(1) of the State Awards Regulations 1978(b) ("the principal Regulations") there shall be substituted for the letter "(e)" the letter "(d)".
3. For Schedule 2 to the principal Regulations there shall be substituted the following Schedule—

"SCHEDULE 2 Regulations 4(1) and 10(1)

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 purpose hereof a reference to employment includes a reference 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 the 28th July 1951 (c) as extended by the Protocol thereto which entered into force on the 4th October 1967(d) or a person who enjoys asylum in the United Kingdom in pursuance of a decision of Her Majesty's Government though not so recognised;

(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, as amended by S.I. 1979/333, 1983/188, 920 and 1987/1365.

(c) Cmnd. 9171.

(d) Cmnd. 3906 (Out of print: photocopies are available, free of charge, from Further and Higher Education Branch 3, Department of Education and Science, Rm. 8/1, Elizabeth House, York Road, London SE1 7PH).

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

“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) A person shall be treated for the purposes of paragraph 2 or 3(a) as ordinarily resident in England and Wales, in the British Islands or in the relevant territory (“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 British Islands on the relevant date and satisfies the Secretary of State that, on the 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 eligible for an 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(a), or
- (d) he is a national of a member state of the European Community not being such a person as is mentioned in sub-paragraph (c) above.

(2) 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—
 - (i) he has been ordinarily resident in the British Islands throughout the period of three years preceding the relevant date; or
 - (ii) in the case of such a person as is mentioned in paragraph 2(1)(c) or (d), he has been ordinarily resident for such period in the relevant territory; or
- (b) if his residence in the British Islands or the relevant territory, as the case may be, 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.

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

- (a) a refugee ordinarily resident in the British 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 and a step-child.

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 British Islands or, as the case may be, or the relevant territory throughout the period mentioned in paragraph 3(a).”.

3rd August 1988

Angela Rumbold
Minister of State, Department of Education and Science

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the State Awards Regulations 1978 relating to the bestowal of State Awards. Changes are made in the rules of eligibility for migrant workers of the European Community and their children contained in Schedule 2. The main effect of the changes is that a European Community migrant worker will no longer have to have been in employment in the United Kingdom for a period of nine months nor be seeking an award in respect of a course provided by a vocational training establishment to be eligible for an award. Instead they will be eligible for an award where they are so eligible 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.

In the light of the general principle contained in section 1(1) of the Family Law Reform Act 1987 (c.42) a reference to a son or daughter will include an illegitimate child. The reference to illegitimate children in paragraph 4(2) of Schedule 2 (concerning children of refugees) has therefore been omitted.