

1988 No. 1424 (S.135)

**EDUCATION, SCOTLAND**

**The Students' Allowances (Scotland) Amendment  
Regulations 1988**

<i>Made</i>	- - - -	<i>8th August 1988</i>
<i>Laid before Parliament</i>		<i>11th August 1988</i>
<i>Coming into force</i>		<i>1st September 1988</i>

The Secretary of State, in exercise of the powers conferred on him by sections 73(f) and 74(1) of the Education (Scotland) Act 1980(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Students' Allowances (Scotland) Amendment Regulations 1988 and shall come into force on 1st September 1988.

(2) In these Regulations, a reference to "the principal Regulations" is a reference to the Students' Allowances (Scotland) Regulations 1987(b).

**Amendments to principal Regulations**

2. In regulation 2(1) of the principal Regulations, the definition of "vocational training establishment" shall be deleted.

3. In regulation 2 of the principal Regulations, for paragraph (4) there shall be substituted the following paragraph:—

"(4) In these Regulations any reference to a person who is "ordinarily resident in Scotland on the qualifying day" includes a person who the Secretary of State is satisfied was not so resident only because he, his spouse, or his parent was for the time being—

- (a) employed outside Scotland; or
- (b) attending a course of study or undertaking postgraduate research outside Scotland."

4. In regulation 2(5) of the principal Regulations, for the word "being" where it first appears there shall be substituted the words "who has been".

5. In regulation 2(5)(a) of the principal Regulations, for the words from the beginning to "and either" there shall be substituted the words "a person as to whom the Secretary of State is satisfied that he was born and spent the greater part of his life in the British Islands or, as the case may be, the European Community and that either".

6. In regulation 2(5)(b) of the principal Regulations, for the words "whom the Secretary of State is satisfied to have been" there shall be substituted the words "who the Secretary of State is satisfied was".

---

(a) 1980 c.44.  
(b) S.I. 1987/864.

7. In regulation 2 of the principal Regulations, there shall be inserted after paragraph (5) the following paragraph:-

“(5A) In these Regulations, where any reference is made to a person who has been ordinarily resident throughout the period of 3 years immediately preceding the relevant date in the European Community, the words “European Community” shall fall to be treated as the territory comprising-

- (a) the European Community, and
- (b) as regards any period prior to their accession to that Community, the Kingdom of Spain and the Portuguese Republic.”.

8. In regulation 2(6) of the principal Regulations-

(a) in sub-paragraph (a), for the words “Training Opportunities Programme, Youth Opportunities Programme, or Youth Training Scheme” there shall be substituted the words “or Training Commission’s training programmes and schemes from time to time in operation”;

(b) for sub-paragraph (e) there shall be substituted the following sub-paragraph:-

“(e) on and after 18th October 1982(a) but before 11th April 1988(b), he was for the purposes of section 5(1) of the Supplementary Benefits Act 1976(c) available for employment and, where applicable, also registered for employment; or”;

(c) after sub-paragraph (e) there shall be inserted the following sub-paragraph:-

“(ee) on and after 11th April 1988, he was for the purposes of section 20(3)(d)(i) and 20(4) of the Social Security Act 1986(d) available for employment and, where applicable, also registered for employment; or”.

(d) for the words from “person registered or available for employment” to “the Social Security Act 1975” there shall be substituted the words “provision contained in the Social Security Act 1975(e) or Social Security Act 1986”.

9. In regulation 5 of the principal Regulations-

(a) for paragraph (b) there shall be substituted the following paragraph:-

“(b)(i) he is entitled to equality of treatment in relation to the payment of an allowance for the course in respect of which he seeks the allowance by virtue of Article 7 or 12 of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community(f); and

(ii) he has been ordinarily resident throughout the period of 3 years immediately preceding the relevant date in the European Community, provided that the Secretary of State is satisfied that he has not been so resident for any part of that period wholly or mainly for the purpose of receiving full-time education; or”;

(b) paragraph (c) shall be deleted; and

(c) in paragraph (e) the words “(the Kingdom of Spain and the Portuguese Republic being deemed for the purposes of this paragraph to have been member states of the European Community from 1st September 1983)” shall be deleted.

St. Andrew’s House, Edinburgh  
8th August 1988

*Michael B. Forsyth*  
Parliamentary Under Secretary of State,  
Scottish Office

(a) On that date section 38 of the Social Security and Housing Benefits Act 1982 (c.24), which made relevant amendments to the Supplementary Benefits Act 1976, came into force by virtue of S.I. 1982/893.

(b) On that date the relevant parts of section 20 of the Social Security Act 1986 (c.50) came into force by virtue of S.I. 1987/1853.

(c) 1976 c.71.

(d) 1986 c.50.

(e) 1975 c.14.

(f) 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 amend the Students' Allowances (Scotland) Regulations 1987 to alter provisions relating to the eligibility of nationals of member states of the European Community. They remove conditions which provided for a minimum period of employment in the United Kingdom. Nationals of other member states of the European Community will be eligible for allowances where they fall to be treated as workers for the purposes of Article 7 of Council Regulation 1612/68 on freedom of movement for workers within the community and are therefore entitled to equality of treatment with United Kingdom Nationals, provided that other conditions as to ordinary residence in the European Community are satisfied. Children of such nationals of other member states will similarly be eligible by virtue of Article 12 of Council Regulation 1612/68 where their parent is or has been a worker in the United Kingdom.

The Regulations also make minor amendments, of a consequential or drafting nature, to the provisions of the 1987 Regulations defining "ordinary residence", and clarify the meaning of "European Community". They update the provisions defining "independent student" to take account of changes in training provision and social security legislation.