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STATUTORY INSTRUMENTS

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**1996 No. 1640**

**EDUCATION, ENGLAND AND WALES**

**The Education (Fees and Awards)  
(Amendment) Regulations 1996**

*Made* - - - - - *29th July 1996*  
*Laid before Parliament* *6th August 1996*  
*Coming into force* - - - *1st September 1996*

The Secretary of State for Education and Employment, in exercise of the powers conferred on the Secretary of State by sections 1 and 2 of the Education (Fees and Awards) Act 1983(1), hereby makes the following Regulations:

1. These Regulations may be cited as the Education (Fees and Awards) (Amendment) Regulations 1996 and shall come into force on 1st September 1996.
2. The Education (Fees and Awards) Regulations 1994(2) shall be amended as follows.
3. In regulation 2(1) insert after the definition of “EEA Agreement” the following definition:  
““EEA migrant worker” means a person who is a national of a member State of the European Economic Area who has taken up an activity as an employed person in the United Kingdom under Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community, as extended by the EEA Agreement;”.
4. Substitute for paragraph 7 of Schedule 1 the following paragraph:  
“7.—(1) A person shall be an excepted student if he is—
  - (a) an EEA migrant worker—
    - (i) who satisfies the conditions mentioned in sub-paragraph (2), and
    - (ii) in whose case it is not lawful to charge higher fees by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement(3); or
  - (b) the spouse of an EEA migrant worker and he—
    - (i) is a national of a member State of the European Economic Area,

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(1) 1983 c. 40, amended by the Education Reform Act 1988 (c. 40), Schedule 12, paragraph 91, by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 19, and by the Education Act 1994 (c. 30), Schedule 2, paragraph 7.  
(2) S.I.1994/3042, amended by the Education (Fees and Awards) (Amendment) Regulations 1995 (S.I. 1995/1241).  
(3) OJ No. L257, 19.10.68, p.2 (OJSE 1968 (II) p.475).

- (ii) satisfies the conditions mentioned in sub-paragraph (2), and
      - (iii) is installed in the United Kingdom with his spouse; or
    - (c) the spouse of an EEA migrant worker and—
      - (i) he is not a national of a member State of the European Economic Area,
      - (ii) he has, throughout the year preceding the date referred to in regulation 6(a), been ordinarily resident in the European Economic Area, and
      - (iii) he is installed in the United Kingdom with his spouse; or
    - (d) the child of an EEA migrant worker and—
      - (i) he satisfies the conditions mentioned in sub-paragraph (2), and
      - (ii) in whose case it is not lawful to charge higher fees by virtue of Article 12 of the above mentioned Council Regulation.
  - (2) The conditions referred to in sub-paragraph (1) are that—
    - (a) he has, throughout the 3 year period referred to in regulation 6(a), been ordinarily resident within the European Economic Area, 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.”
5. In paragraph 8 of Schedule 1 substitute for the reference “7(a)” the reference “7(2)(a)”.
6. Substitute for paragraph 2 of Schedule 2 the following paragraph:
- “2.—(1) A person shall be an excepted candidate if he is—
- (a) an EEA migrant worker who—
    - (i) satisfies the condition mentioned in sub-paragraph (2), and
    - (ii) is eligible for a maintenance award by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on free movement of workers within the Community, as extended by the EEA Agreement; or
  - (b) the spouse of an EEA migrant worker and he—
    - (i) is a national of a member State of the European Economic Area,
    - (ii) satisfies the conditions mentioned in sub-paragraph (2), and
    - (iii) is installed in the United Kingdom with his spouse; or
  - (c) the spouse of an EEA migrant worker and he—
    - (i) is not a national of a member State of the European Economic Area,
    - (ii) has been, throughout the year preceding the date referred to in regulation 9(a), 12 or 15, as the case may be, ordinarily resident in the European Economic Area, and
    - (iii) is installed in the United Kingdom with his spouse; or
  - (d) the child of an EEA migrant worker and he—
    - (i) satisfies the conditions mentioned in sub-paragraph (2), and
    - (ii) is eligible for a maintenance award by virtue of Article 12 of the above mentioned Council Regulation.
- (2) The conditions referred to in sub-paragraph (1) are that he would have a relevant connection with the European Economic Area 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 the United Kingdom been a reference to the European Economic Area, and had sub-paragraph (c) of regulation 15 been omitted.”

29th July 1996

*Henley*  
Minister of State,  
Department for Education and Employment

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Education (Fees and Awards) Regulations 1994 and come into force on 1st September 1996.

The amendments confer on the spouse of a European Economic Area migrant worker the right to pay “home rate” as opposed to higher “overseas rate” fees at institutions referred to in Part II of the 1994 Regulations. They also prohibit rules of eligibility for certain awards referred to in Parts III to V of those Regulations from excluding such spouses from eligibility for such awards.